AUSTRALIAN RUGBY UNION LIMITED

(ACN 002 898 544)

MEMBER PROTECTION POLICY

STATEMENT FROM CHIEF EXECUTIVE OFFICER

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

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

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

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

John O'Neill AO
Managing Director and Chief Executive Officer
Australian Rugby Union Limited

April 2010

PART A: MEMBER PROTECTION POLICY 4

1. Australian Rugby Union Core Values 4
2. Purpose of this Policy 4
3. Who this Policy Applies To 4
4. Code Of Behaviour 5
5. Organisational Responsibilities 5
6. Individual Responsibilities 5
7. Policy Position Statements 6
   - 7.1 Child Protection Policy 6
   - 7.2 Taking Images of Children 6
   - 7.3 Anti-Discrimination and Harassment Policy 7
   - 7.4 Sexual Relationships 7
   - 7.5 Pregnancy Policy 7
   - 7.6 Gender Identity Policy 8
8. Complaints Procedures 8
   - 8.1 Complaints 8
   - 8.2 Vexatious Complaints and Victimisation 8
   - 8.3 Mediation 8
   - 8.4 Conduct Committees 8
9. What is a Breach of this Policy 9
10. Forms of Discipline 10
11. Definitions 10

PART B: CHILD PROTECTION REQUIREMENTS 15

Attachment B1: Queensland Blue Card Requirements 16
Attachment B2: New South Wales Requirements to Check People Working With Children 17
Attachment B3: Western Australia Child Protection Requirements 18
Attachment B4: Victoria Child Protection Requirements 19
Attachment B5: South Australia Child Protection Requirements 20
Attachment B6: Northern Territory Child Protection Requirements 21
Attachment B7: Child Protection Requirements – Other Jurisdictions 22
Attachment B8: Member Protection Declaration 24

PART C: PROCEDURES 25

Attachment C1: Complaints Procedure 26
Attachment C2: Mediation Procedure 29
Attachment C3: Investigation Procedure - Child Abuse 31
Attachment C4: Conduct Committee and Appeals Procedure 33
Attachment C5: Disciplinary Measures 36

PART D: REPORTING DOCUMENTS/FORMS 38

Attachment D1: Confidential Record of Complaint 39
Attachment D2: Confidential Record of Child Abuse Allegation 41
Attachment D3: Record of Mediation 43
Attachment D4: Record of Conduct Committee/Conduct Tribunal Decision 44

PART A: MEMBER PROTECTION POLICY

1. Australian Rugby Union Core Values

Professionalism, teamwork, integrity, pride, energy and innovation form Australian Rugby Union's (***ARU***) core values.

2. Purpose of this Policy

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

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

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

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

3. Who this Policy Applies To

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

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

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

4. Code Of Behaviour

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

4.1 Be ethical, fair and honest in all their dealings with other people, organisations and Rugby Bodies including the ARU;

4.2 Treat all persons with respect and courtesy and have proper regard for their dignity, rights and obligations;

4.3 Always place the safety and welfare of children above other considerations;

4.4 Comply with the ARU's by-laws and policies (including the ARU's Code of Conduct By-Law and this Member Protection Policy) and the IRB Laws of the Game and Regulations;

4.5 Operate within the spirit of the sport;

4.6 Comply with all relevant Australian laws (Federal and State), particularly anti-discrimination and child protection laws; and

4.7 Be responsible and accountable for their conduct.

5. Organisational Responsibilities

The Rugby Bodies must:

5.1 Adopt, implement and comply with this Policy;

5.2 Publish, distribute and otherwise promote this Policy and the consequences for breaching it;

5.3 Promote appropriate standards of conduct at all times;

5.4 Promptly deal with any breaches of or complaints made under this Policy in an impartial, sensitive, fair, timely and confidential manner;

5.5 Apply this Policy consistently without fear or favour;

5.6 Recognise and enforce any penalty imposed under this Policy;

5.7 Ensure that a copy of this Policy is available or accessible to the persons and organisations to whom this Policy applies;

5.8 Appoint a person(s) to receive and handle complaints and allegations (ARU and Member Unions must appoint a Member Protection Officer (***MPO***), all other Rugby Bodies must appoint a Member Protection Contact (***MPC***) or an MPO) and display the names and contact details in a way that is readily accessible; and

5.9 Monitor and review compliance with this Policy at least annually.

6. Individual Responsibilities

Individuals bound by this Policy are responsible for:

6.1 Making themselves aware of the Policy and complying with the standards of behaviour outlined in this Policy;

6.2 Consenting to a Police Check (if required) if the individual holds or applies for a role that involves direct and unsupervised contact with people under the age of 18 years.

6.3 Complying with all other requirements of this Policy;

6.4 Co-operating in providing a sporting environment that is free from Discrimination, Child Abuse and Harassment; and

6.5 Understanding the possible consequences of breaching this Policy.

7. Policy Position Statements

7.1 Child Protection Policy

Every person and organisation bound by this Policy must always place the safety and welfare of children above all other considerations.

The ARU acknowledges that the Rugby Bodies, staff, members and volunteers provide a valuable contribution to the positive experiences of junior participants. The ARU aims to ensure this continues and to protect the safety and welfare of its junior participants. Several measures will be used to achieve this such as:

- Prohibiting any form of Abuse against children;
- Carefully selecting and screening people whose role requires them to have direct and unsupervised contact with children. (Screening procedures are outlined in Part B of this Policy);
- Providing procedures for raising concerns or complaints (the complaints procedure is outlined in Part C of this Policy); and
- Providing education and/or information to those involved in rugby on Child Abuse and child protection.

The ARU requires that any child who is abused or anyone who reasonably suspects that a child has been or is being abused by someone within rugby, must report it immediately to the police, relevant government agency and the Rugby Body. Descriptions of the sorts of activity which may be Abuse are in the Definitions at clause 11.

All allegations of Child Abuse will be dealt with promptly, seriously, sensitively and confidentially. A person will not be victimised for reporting an allegation of Child Abuse and the privacy of all persons concerned will be respected. The procedures for handling allegations of Child Abuse are outlined in attachment C of this Policy.

If anyone bound by this Policy reasonably 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.

7.2 Taking Images of Children

Images of children can be used inappropriately or illegally. The ARU requires that individuals and Rugby Bodies, wherever possible, obtain permission from a child's parent/guardian before taking an image of a child that is not their own and ensure the parent/guardian knows the way the image will be used. The ARU also requires the privacy of others to be respected and disallow the use of camera phones, videos and cameras inside changing areas, showers and toilets without the express written permission of the ARU.

If the ARU 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 the surname. The ARU will not display personal information such as residential address, email address or telephone number without gaining parental/guardian consent. The ARU will not display information about hobbies, likes/dislikes, schools etc as this information can be use as grooming tools by pedophiles or other persons. The ARU will only use appropriate images of a child, relevant to rugby and ensure the child is suitably clothed in a manner that promotes rugby.

The ARU requires Rugby Bodies to do likewise.

7.3 Anti-Discrimination and Harassment Policy

The ARU aims to provide a sport environment where all those involved in its activities are treated with dignity and respect, and without Harassment, Discrimination or bullying.

The ARU 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, Harassed or bullied.

The ARU prohibits all forms of Harassment, Discrimination or bullying based on personal characteristics listed in the Definitions. Discrimination, Harassment and bullying are extremely distressing, offensive, humiliating and/or threatening and create an uncomfortable and unpleasant environment. In some circumstances Discrimination, Harassment and bullying are against the law.

Descriptions of some of the types of behaviour which could be regarded as Harassment or Discrimination are provided in the Definitions at clause 11.

If any person feels they are being harassed or discriminated against or bullied by a person or organisation bound by this Policy they should approach the MPC. The complaints procedure is outlined in Part C of the Policy.

7.4 Sexual Relationships

The ARU takes the view that intimate relationships (whether or not of a sexual nature) between coaches and players, while not necessarily constituting harassment, can have a harmful effect on the player, on other players and on the public image of Rugby. Such relationships may be perceived to be exploitive because there is usually a disparity between coaches and players in terms of authority, maturity, status, influence and dependence. Given there is always a risk that the relative power of the coach has been a factor in the development of such relationships, they should be avoided by coaches at all levels. In the event that an athlete attempts to initiate an intimate relationship, the coach must take personal responsibility for discouraging such approaches, explaining the ethical basis for such actions.

The coach or player may wish to approach the MPC if they feel harassed. The complaints procedure is outlined in Part C of this Policy.

7.5 Pregnancy Policy

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

Descriptions of some of the types of behaviour which could be regarded as pregnancy Discrimination or Harassment are provided in the Definitions at clause 11.

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

7.6 Gender Identity Policy

The ARU is committed to providing an inclusive sporting environment where transgender or transsexual people involved in its activities are able to contribute and participate. The ARU expects everyone who is bound by this Policy to treat people who identify themselves as transgender or transsexual fairly and with dignity and respect. This includes acting with sensitivity and respect where a person is undergoing gender transition. The ARU will not tolerate any unlawful Discrimination or Harassment against a person who identifies as transgender or transsexual or who is thought to be transgender or transsexual.

Descriptions of some of the types of behaviour which could be regarded as transgender or transsexual Discrimination or Harassment are provided in the Definitions at clause 11.

The ARU recognises that the exclusion of transgender or transsexual people from participation in sporting events has significant implications for their health, well being and involvement in community life. In general, Rugby Bodies will facilitate transgender or transsexual persons participating in rugby of the sex with which they identify.

The ARU also 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, the ARU will seek advice on the application of those laws in the particular circumstances.

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

The ARU notes that drug testing procedures and prohibitions also apply to people who identify as transgender 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.

8. Complaints Procedures

8.1 Complaints

The ARU aims to provide an easy to use, confidential and trustworthy procedure for Complaints based on the principles of Natural Justice. Any person may report a Complaint (***Complainant***) about a person/s or organisation bound by this Policy if they reasonably believe that a person/s or a sporting organisation has breached this Policy.

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

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

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

A Complaint may be reported as an informal or formal Complaint. The Complainant decides whether the Complaint will be dealt with informally or formally unless the Rugby Body considers

that the Complaint falls outside the parameters of this Policy and would be better dealt with another way.

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

8.2 Vexatious Complaints and Victimisation

The ARU aims to ensure the complaints procedure has integrity and is free of unfair repercussions or Victimisation. If at any point in the complaint process the Rugby Body considers that a Complainant has knowingly made an untrue Complaint or the Complaint is vexatious or malicious, the matter may be referred to the Rugby Body's Conduct Committee for appropriate action which may include disciplinary action against the Complainant.

The Rugby Body 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.

8.3 Mediation

The Rugby Body aims to sort out Complaints with the minimum of fuss wherever possible. 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 formal Complaint - the Complainant and the person complained about (***Respondent***) - may also seek the assistance of a neutral third person or a Mediator.

If a Complainant wishes to try and resolve the Complaint with the assistance of a Mediator, the Rugby Body will, in consultation with the Complainant, arrange for a Mediator to mediate the Complaint. More information on the mediation process is outlined in attachment C of this Policy.

8.4 Conduct Committees

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

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

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

9. What is a Breach of this Policy

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

- Done anything contrary to this Policy;
- Failed to follow ARU policies and procedures for the protection, safety and welfare of children;
- Appointed or continued to appoint a person to a role that involves working with children and Young People contrary to this Policy;

- Discriminated against or harassed any person;
- Victimised another person for reporting a Complaint;
- Engaged in a sexually inappropriate relationship with a person that the person supervises, or has influence, authority or power over;
- Verbally or physically assaulted another person, intimidated another person or created a hostile environment within the sport;
- Made a Complaint they knew to be untrue, vexatious, malicious or improper;
- Failed to comply with a penalty imposed after a finding that the individual or organisation has breached this Policy; or
- Failed to comply with a direction given to the individual or organisation during the discipline process in relation to an alleged breach of this Policy.

10. Forms of Discipline

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

Any disciplinary measure imposed under this Policy must:

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

11. Definitions

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

Abuse is 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.

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

ARU means Australian Rugby Union Limited.

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

Child Abuse relates to 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. Children may be harmed by both 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 Policy.

Complainant means the person making a Complaint.

Discrimination means treating or proposing to treat someone less favourably than someone else because of a particular characteristic in the same or similar circumstances in certain areas of public life (this is Direct Discrimination). The law also covers **Indirect Discrimination.** This is 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. 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 and breastfeeding;
- Race;
- Religious belief/activity;
- Sex or gender;
- Social origin;
- Trade union membership/activity.

  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: A club refuses to allow an older person to coach a team simply because of their age.

  Breastfeeding: A member of the club who is breastfeeding her baby in the club rooms is asked to leave.

  Disability: A junior player is overlooked because of his mild epilepsy.

  Family responsibilities: A club decides not to promote an employee because he has a child with a disability even though the employee is the best person for the job.

Gender Identity: A transgender contract worker is harassed when employees refuse to call her by her female name.

Homosexuality: An athlete is ostracised from her team after she tells a team mate that she is a lesbian.

Marital Status: A player is deliberately excluded from team activities and social functions because she is single.

Pregnancy: A woman is dismissed from her job as team doctor when she becomes pregnant.

Race: A Tongan referee is not permitted to referee games with a high proportion of Tongan players on one team because of his race.

Sex: Specialist training courses offered to male match officials and not to female match officials.

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

Unlawful Harassment includes the above but is either sexual or targets a person because of their race, sex, pregnancy, marital status, sexual orientation or 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 or repeated. It may be explicit or implicit, verbal or non-verbal.

Under this Policy, 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 12 years of age or over 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 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 against 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 to another club official or for supporting another player who has made such a complaint.

Public acts of racial hatred which are reasonably likely in the circumstances 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.

IRB means the International Rugby Board.

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

Mediator means a person appointed to mediate complaints made under this Policy. It is preferable that the Mediator has relevant skills, qualifications and/or training in mediation.

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

Member protection is a term used by the Australian sport industry to describe the practices and procedures that protect members – both individual members such as players, coaches and officials, and the member organisations such as clubs, state associations, other affiliated associations and the national body. Member protection involves:

- protecting those that are involved in sport activities from Harassment, Abuse, Discrimination and other forms of inappropriate behaviour
- adopting appropriate measures to ensure the right people are involved in an organisation, particularly in relation to those involved with juniors, and
- providing education.

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

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

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

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 maker/s must be unbiased, fair and just; and
- the penalties imposed must not outweigh the 'crime'.

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

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

Respondent means the person/people who is/are being complained about.

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

Sexual Harassment means 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; or
- Publishing child pornography and indecent articles.

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 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.

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

PART B: CHILD PROTECTION REQUIREMENTS

Background

Child Protection is about keeping children safe from abuse and protecting them from people who are unsuitable to work with children. Child Abuse is illegal in all states and territories of Australia, with each having their own child protection laws that cover the reporting and investigation of cases of Child Abuse.

In Queensland, New South Wales, Western Australia, Victoria, South Australia and Northern Territory child protection legislation places specific requirements upon individuals and organisations involved in a range of areas including sport and recreation. The Australian Capital Territory and Tasmania governments are currently reviewing their child protection legislation. New requirements or any amendments to existing requirements will be added to the Member Protection Policy as they are introduced.

Please be aware that state and territory child protection requirements may apply to individuals and organisations originating outside of the states with the legislation in place. For example, if a Rugby Body takes junior players into New South Wales for training camps, competition or other activities, those travelling with the teams must comply with the NSW legislative requirements.

Please note that the state specific child protection requirements apply despite the existence or absence of the Member Protection Policy.

As part of the ARU's commitment to protecting the safety and welfare of children and Young People involved in rugby activities, Rugby Bodies are required to provide education and/or information on Child Abuse and child protection to those involved in our sport such as coaches, juniors, parents and officials.

The ARU requires that each Rugby Body must be aware of and abide by their relevant legal obligations as they exist from time to time.

Attachment B1-B6 provide summaries of the child protection requirements in **Queensland**, **New South Wales**, **Western Australia**, **Victoria, South Australia and Northern Territory**. They are provided only as a guide to the requirements existing at the date of this policy.

Attachment B7 and B8 set out a recommended screening process for people who currently occupy or who apply for any work (paid or voluntary) within a Rugby Body that involves direct and unsupervised contact with people under the age of 18 years ("Children") in a **State or Territory that does not have specific child protection legislative** requirements.

Attachment B1: QUEENSLAND BLUE CARD REQUIREMENTS

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.ccypg.qld.gov.au
- 1800 113 611

ATTACHMENT B2: NEW SOUTH WALES REQUIREMENTS TO CHECK PEOPLE WORKING WITH CHILDREN

All organisations within NSW that employ people in child-related employment (in a paid or unpaid capacity) must meet the requirements of the Working with Children Check (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 Commission for Children and Young People, 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 or 02 9286 7219
- www.dsr.nsw.gov.au/children/resources.asp or 02 9006 3700

ATTACHMENT B3: WESTERN AUSTRALIA CHILD PROTECTION REQUIREMENTS

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 or call 1800 883 979 (toll free)

ATTACHMENT B4: VICTORIA CHILD PROTECTION REQUIREMENTS

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 bodes (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 or 1300 652 879

ATTACHMENT B5: SOUTH AUSTRALIA CHILD PROTECTION REQUIREMENTS

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. Part of the Government regulations are 'Seven Principles of Good Practice' which clubs and organisations are expected to adopt as proactive and preventative strategies. These principles are to help prevent and minimise opportunities for abuse and to appropriately respond when abuse occurs or is suspected. The principles can be assessed at the following link:

http://www.recsport.sa.gov.au/training-development/documents/Keep_Children_Safe_Guidelines.pdf

Criminal history assessments (checks) are likely to be mandatory for most positions in sporting organisations from 2010/2011. Some exemptions could apply.

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:

- http://www.dfc.sa.gov.au/pub/Default.aspx?tabid=281

ATTACHMENT B6: NORTHERN TERRITORY CHILD PROTECTION REQUIREMENTS

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. Coaches, trainers, team administrators, officials and volunteers of Rugby Bodies that deal with children are included under legislative requirements.

Clearance notices are valid for two years from date of issue unless revoked, and are transferable within employment fields. As 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).

ATTACHMENT B7: CHILD PROTECTION REQUIREMENTS – OTHER JURISDICTIONS

This attachment sets out the recommended screening process for people who currently occupy or who apply for any work (paid or voluntary) within a Rugby Body that involves direct and unsupervised contact with people under the age of 18 years in a State or Territory that does not have specific child protection legislative requirements (at the time of writing Tasmania and the Australian Capital Territory).

Screening under this Policy is not a replacement for any other procedure required by law. If State or Territory legislation sets an equivalent or higher standard of screening, that higher standard must be adhered to. It is each Rugby Body's responsibility to ensure they are aware of and abide by their relevant legal obligations as they exist from time to time.

Rugby Body requirements

Under the ARU Member Protection Policy, each Rugby Body should:

1. Identify positions (paid and voluntary) that involve working with people under the age of 18 years.

2. Obtain a completed Member Protection Declaration (***MPD***) (Attachment B8) from all people who are bound by this Policy if they occupy or apply for a position that involves working with people under the age of 18 years. The MPD will be kept in a secure place.

   If a MPD is not provided, or it reveals that a person does not satisfactorily meet with one or more of the clauses in the MPD (e.g. has a relevant criminal conviction), the Rugby Body will:

   - provide an opportunity for the person to respond/provide an explanation, and
   - 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, then the Rugby Body will:

   - in the case of an existing employee/volunteer, transfer the person to another role which does not require them to work directly and unsupervised with people under the age of 18 years. If this is not possible, then seek legal advice as to whether it is appropriate to end the appointment.
   - in the case of a person applying for the position/role, not appoint them to a role that requires them to work directly with people under the age of 18 years.

3. Check a person's referees (verbal or written) and interview a person about his/her suitability for the role and his/her suitability for working with children for both paid and voluntary positions.

4. Ask people applying for and people who currently occupy a paid position that involves direct and unsupervised contact with people under the age of 18 years to **sign a consent form** for a Police Check. (Information on Police Checks and forms can be found at www.ausport.gov.au/ethics/policechecks.asp).

5. Request a Police Check from the relevant police jurisdiction for people applying for and people who currently occupy paid positions that involves direct and unsupervised contact with people under the age of 18 years.

   In most police jurisdictions a 'Part Exclusion' check for people working with children can be requested. This check excludes irrelevant records.

   If the Police Check indicates a relevant offence, the Rugby Body will:

   - provide an opportunity for the person to respond/provide an explanation, and
   - 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, then the Rugby Body will:

   - in the case of an existing employee/volunteer, transfer the person to another role which does not require them to work directly and unsupervised with people under the age of 18 years. If this is not possible, then seek legal advice as to whether it is appropriate to end the appointment.

- in the case of a someone applying for the position/role, not appoint them to a role that requires them to work directly with people under the age of 18 years.

If the person does not agree to a Police Check after explaining why it is a requirement, the Rugby Body shall 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, the Rugby Body will:

- in the case of an existing employee/volunteer, transfer the person to another role which does not require them to work directly and unsupervised with people under the age of 18 years. If this is not possible, then seek legal advice as to whether it is appropriate to end the appointment.
- in the case of a someone applying for the position/role, not appoint them to a role that requires them to work directly with people under the age of 18 years.

6. Decide whether to offer the person the position, taking into account the result of the Police Check and any other information the Rugby Body has available. Where it is not practical to complete the Police Check prior to employment commencing, the Rugby Body should still complete the check as soon as possible. The Rugby Body will advise the person that their ongoing employment is conditional upon the satisfactory outcome of the check.

7. Where a Police Check is obtained under this member protection Policy, another organisation which is also required to screen may obtain a copy of the Police Check provided that the consent of the relevant person is obtained and the Police Check was performed in the immediately preceding two years.

8. Protect the privacy of any person who is checked and the confidentiality of any information obtained through the checking process. Information collected during screening (such as a completed MPD form, police records and referee reports) will be returned to the relevant person if that person is not appointed to/will not remain in the position, or otherwise be destroyed with the consent of the person concerned.

ATTACHMENT B8: MEMBER PROTECTION DECLARATION

The Rugby Body has a duty of care to its members and to the general public who interact with its employees, volunteers, members and others involved with Rugby activities. As part of this duty of care and as a requirement of the ARU's Member Protection Policy, the Rugby Body must enquire into the background of those applying for, undertaking or remaining in any work (paid or voluntary) that involves direct and unsupervised contact with people under the age of 18 years.

I ……..(name)

of ……..……..(address)

born ……/……/……

sincerely declare:

1. I do not have any criminal charge pending before the courts.
2. I do not have any criminal convictions or findings of guilt for sexual offences, offences related to children or acts of violence.
3. I have not had any disciplinary proceedings brought against me by an employer, sporting organisation or similar body involving child abuse, sexual misconduct or Harassment, acts of violence, intimidation or other forms of Harassment.
4. To my knowledge there is no other matter that the Rugby Body may consider to constitute a risk to its members, employees, volunteers, athletes or reputation by engaging me.
5. I will notify the President of the Rugby Body engaging me immediately upon becoming aware that any of the matters set out in clauses 1 to 4 above has changed for whatever reason.

Declared in the State/Territory of …….…….

on ……../……./…….(date) Signature …….

Parent/Guardian Consent (in respect of 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: ……. …….

PART C: PROCEDURES

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

C1 Complaints Procedure

C2 Mediation Procedure

C3 Investigation Procedure – Child Abuse

C4 Conduct Committee and Appeals Procedure

C5 Disciplinary Measures

ATTACHMENT C1: COMPLAINTS PROCEDURE

A Complaint can be about an act, behaviour, omission, situation or decision that someone thinks is unfair, unjustified, unlawful and/or a breach of this Policy. Complaints will always vary. They may be about individual or group behaviour; they may be extremely serious or relatively minor; they may be about a single incident or a series of incidents; and the person about who the allegation is made may admit to the allegations or emphatically deny them.

Given all of the variables that can arise, the ARU provides a step-by-step complaint procedure that people may use/enter at any stage. Individuals and organisations to which this Policy applies may also pursue their Complaint externally under anti-discrimination, child-protection or other relevant legislation.

If at any point in the complaint process the Member Protection Contact or Member Protection Officer considers that a Complainant has **knowingly** made an untrue Complaint or the Complaint is vexatious or malicious, the matter will be referred to the Rugby Body's Conduct Committee for appropriate action.

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.

If the Complainant wishes to remain anonymous, the Rugby Body can't assist the Complainant to resolve the Complaint. The Rugby Bodies have to follow the principles of Natural Justice and be fair to both sides. This means that the Rugby Body or the Complainant may be required to provide the Respondent with full details of the Complaint so they have a fair chance to respond to all the allegations.

Initially, Complaints shall be handled by the Complainant's Rugby Body (being that Rugby Body whom the Complainant usually plays for, is a member of or is otherwise connected to).

At any point during the complaints procedure the Complainant may file a formal written Complaint to the relevant Rugby Body.

Step 1 – Person to person

The Complainant should try to resolve the problem with the person or people involved if the Complainant feels able to do so.

Step 2 – Talking with MPC/MPO

If the first step was not practicable, or did not achieve resolution of the problem, or the Complainant would like to talk confidentially about the problem with someone and get some more information about what they can do, the Complainant should talk with their Rugby Body's MPC/MPO.

The MPC/MPO will:

- take notes about the Complaint (which the MPC/MPO will keep in a secure and confidential place);
- try to sort out the facts of the problem;
- ask what outcome/how the Complainant wants the problem resolved and if the Complainant needs support;
- provide possible options for the Complainant to resolve the problem;
- explain how the complaints procedure works;
- act as a support person if the Complainant so wishes;
- refer the Complainant to an appropriate person(s) to help the Complainant resolve the problem, if necessary;
- inform the relevant government authorities and/or police if required by law to do so; and

- maintain strict confidentiality.

Step 3 – Complainant's options

After talking with the MPC/MPO, the Complainant may decide:

- there is no problem or the problem is minor and the Complainant does not wish to take the matter forward;
- to try and work out their own resolution (with or without a support person such as a MPC/MPO);
- to seek an informal mediated resolution with the help of a third person (such as a Mediator or a manager);
- make a formal Complaint in writing to their Rugby Body detailing the particulars of the Complaint; or
- approach a relevant external agency such as an equal opportunity commission, for advice.

Step 4 – Formal Complaint

If the Complainant decides to make a formal Complaint in writing under Step 3, the Rugby Body will, on receiving the formal Complaint and based on the material the Complainant has provided, decide whether they are the appropriate entity to receive and handle the Complaint. If they are not, they will promptly refer the Complaint to the appropriate Rugby Body and advise the Complainant who the Complaint has been referred to.

Wherever possible, Complaints should be handled by the Complainant's Rugby Body (being that Rugby Body whom the Complainant usually plays for, is a member of or is otherwise connected to). If that Rugby Body is unable to deal with the Complaint, it should refer the matter to the Rugby Body of which it is a member.

The appropriate Rugby Body will, to the extent that these steps are necessary:

- obtain full information from the Complainant about the Complaint and how the Complainant wants it resolved (if this information has not already been obtained through earlier steps);
- put the information they've received from the Complainant to the person/people complained about and ask them to provide their side of the story;
- decide whether they have enough information to determine whether the matter alleged in the Complaint did or didn't happen;
- determine what, if any, further action to take - this action may include:
  - (i) referring the Complaint to a mediation session (the mediation session will be conducted in accordance with Attachment C2 or as otherwise agreed by the Complainant and the Respondent);
  - (ii) referring the Complaint to a Conduct Committee (the hearing will be conducted in accordance with Attachment C4); or
  - (iii) referring the Complaint to the police or other appropriate authority (the Rugby Body will use its best endeavours to provide all reasonable assistance lawfully required by the police or other appropriate authority); and
- decide whether to implement any interim administrative or other arrangements that will apply until the complaint process set out in these Procedures is completed (the Rugby Body will periodically review these arrangements to ensure that they are effective).

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

- whether the person handling the Complaint has had any personal involvement in the circumstances giving rise to the Complaint and, if so, whether their ability to impartially manage the Complaint is compromised or may appear to be compromised;
- whether, due to the nature of the Complaint, specific expertise or experience may be required to manage the Complaint;

- the Complainant's wishes, and the wishes of the Respondent, regarding the manner in which the Complaint should be handled;
- whether, due to the nature of the Complaint, the relationship between the Complainant and the Respondent and any other relevant factors, the Complaint should be referred (or should not be referred) to informal or formal mediation or to a Conduct Committee. Relevant factors may include an actual or perceived power imbalance between the Complainant and the Respondent, the nature of any ongoing working relationship between the Complainant and the Respondent, and the personal attributes of the Complainant and the Respondent (for example, if one party does not speak English fluently, some of the possible complaints resolution mechanisms may not be appropriate);
- the nature and sensitivity of any information or other material that must be provided by the Complainant, the Respondent, and any of the other people involved in the Complaint;
- whether the facts of the Complaint are in dispute; and
- the urgency of the Complaint, including the likelihood and the consequences (if the Complaint is ultimately proven) that the Complainant will be subject to further unacceptable behaviour while the complaint process set out in these Procedures is being conducted.

If a mediation session is conducted, and the Complainant and the Respondent(s) cannot reach a mutually acceptable mediated solution to the Complaint, the Complaint will be referred to the relevant Rugby Body's Conduct Committee.

Step 5 - Appeal

The Complainant or the Respondent(s) may be entitled to appeal where a decision was made by the Rugby Body or the relevant Rugby Body's Conduct Committee not to take any action or to take disciplinary action.

The grounds for appeal and the process for appeals under this Policy are set out in Attachment C4.

If the internal complaints processes set out in this Policy do not achieve a satisfactory resolution/outcome for the Complainant, or if the Complainant believes it would be impossible to get an impartial resolution within the Rugby Body, the Complainant may choose to approach an external agency such as an equal opportunity commission to assist with a resolution.

Step 6 – Documentation

The Rugby Body will document the Complaint, the process followed and the outcome in the form set out at Attachment D. This document will be stored in a confidential and secure place.

External procedure

There may be a range of external options available to the Complainant depending on the nature of the Complaint. If the Complainant feels that they have been harassed or discriminated against, the Complainant can seek advice from the State or Territory equal opportunity commission without being obliged to make a formal Complaint. If the commission advises the Complainant that the problem appears to be a type of Harassment that comes within its jurisdiction, the Complainant may then make a decision as to whether or not to lodge a formal complaint with the commission.

Once a complaint is received by an anti-discrimination commission, an investigation will be conducted. If it appears that unlawful Harassment or Discrimination has occurred, there will usually be an attempt to conciliate the complaint confidentially first. If this fails, or is inappropriate, the complaint may go to a formal hearing where a finding will be made as to whether unlawful Harassment or Discrimination occurred. 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.

An anti-discrimination commission can decline to investigate a complaint, or dismiss a complaint at any point in the investigation, conciliation or public hearing stages.

ATTACHMENT C2: MEDIATION PROCEDURE

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 attachment outlines the general procedure of mediation that will be followed by the Rugby Body

1. Mediation (getting those involved to come to a joint agreement about how the Complaint should be resolved) will only be recommended if:
   a. The Complainant and Respondent have had their chance to tell their version of events to Rugby Body on their own; and
   b. Rugby Body does not believe that any of the allegations warrant any form of disciplinary action; and
   c. Mediation looks like it will work (i.e. the versions given by the Complainant and Respondent tally or almost tally and/or at the very least, it looks as though it will be possible for each party to understand the other party's point of view).
2. Mediation will **not** be recommended if:
   a. The Respondent has a completely different version of the events and they won't deviate from these;
   b. The Complainant or Respondent are unwilling to attempt mediation; or
   c. Due to the nature of the Complaint, the relationship between the Complainant and the Respondent(s) and any other relevant factors, the Complaint is not suitable for mediation.
3. If mediation is chosen to try and resolve the Complaint, the Rugby Body will in consultation with the Complainant and the Respondent(s), arrange for a Mediator to mediate the Complaint.
4. The Rugby Body will notify the Respondent(s) that a formal Complaint has been made, provide them with details of the Complaint and inform them that the Rugby Body has decided to refer the matter to mediation to resolve the Complaint.
5. The Mediator's role is to assist the Complainant and Respondent(s) to 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.
6. 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.
7. At the end of a successful mediation the Mediator will prepare a document (in the form set out at Attachment D) that sets out the agreement reached between the Complainant and Respondent(s) and it will be signed by them as their agreement.
8. If the formal Complaint is not resolved by mediation, the Complainant may:
   a. Write to the Rugby Body to request that the Complaint be referred to the Conduct Committee; or
   b. Approach an external agency such as an anti-discrimination commission.

ATTACHMENT C3: INVESTIGATION PROCEDURE - CHILD ABUSE

An allegation of Child Abuse is a very serious matter and must be handled with a high degree of sensitivity. The initial response to a Complaint that a child has allegedly been abused should be immediate if the incident/s are serious or criminal in nature while less serious/urgent allegations should be actioned as soon as possible, preferably within 24 hours.

The following is a basic outline of the key processes to follow. More information can be obtained from your relevant State or Territory government agency.

Step 1 - Clarify basic details of the allegation

- Any complaints, concerns or allegations of Child Abuse should be made or referred to Rugby Body's MPC/MPO.
- The initial response of the person that receives the Complaint from the child (or person on behalf of the child) is crucial to the well-being of the child. It is important for the person receiving the information to:
  - Listen to, be supportive and do not dispute what the child says;
  - Reassure the child that what has occurred is not the fault of the child;
  - Ensure the child is safe;
  - Be honest with the child and explain that other people may need to be told in order to stop what is happening;
  - Ensure that what the child says is quite clear but do not elicit detailed information about the abuse. You should avoid suggestive or leading questions;
  - Act promptly to accurately record the discussion in writing;
  - Do not discuss details with any person other than those detailed in these procedures; and
  - Do not contact the alleged offender..
- The person receiving the Complaint should obtain and clarify basic details (if possible) such as:
  - Child's name, age and address;
  - Person's reason for suspecting abuse (observation, injury or other); and
  - Names and contact details of all people involved, including witnesses.
- Upon receipt of the Complaint, the MPC must refer the matter to their Member Union's MPO.

Step 2 – Report allegations of a serious or criminal nature

- Any individual or organisation to which this Policy applies, **should immediately report any incident of a serious or a criminal nature to the police and other appropriate authority**.
- If the allegation involves a child at risk of harm, the incident should immediately be reported to the police or other appropriate government agency. You may need to report to both the police and the relevant government agency.
- The relevant State or Territory authority should be contacted for advice if there is **any** doubt about whether the Complaint should be reported.
- If the child's parent/s are suspected of committing the abuse, report the allegation to the relevant government agency.

Step 3 – Protect the child and manage the situation

- The Member Union MPO will assess the risks and take interim action to ensure the child's/children's safety. Some options that the Member Union or Rugby Body could implement include redeployment of the alleged offender to a non-child related position, supervision of the alleged offender or removal/suspension from their duties until the allegations are finally determined.
- The Member MPO will consider the kind of support that the child/children and parents may need (eg counselling, helplines, support groups).
- The Member Union MPO will also address the support needs of the person against whom the Complaint is made. Supervision of the person should ideally occur with the knowledge of the person.

- The Member MPO will also put in place measures to protect the child and the person against whom the complaint is made from victimisation and gossip. If stood down, it should be made clear to all parties that are aware of the incident that this does not mean the person is guilty and a proper investigation still needs to be undertaken.

Step 4 – Further clarify and investigate allegation

- Where there is an allegation made against a person to whom this Policy applies, there may be three types of investigations:
    - Criminal (conducted by the police);
    - Child protection (conducted by child protection authority); or
    - Disciplinary or misconduct (conducted by the Conduct Committee of the Member Union).
- Seek advice from the police and relevant government agency as to whether the Member Union should carry out its own internal investigation (in addition to or in conjunction with any police or relevant government agency investigation).
- If the police and/or relevant government agency advises that it is appropriate, then appoint an independent person (where possible) with appropriate expertise to conduct an investigation. The investigator should:
    - Contact the parents/carers of the child at an appropriate time and as directed by the police or relevant government agency.
    - If appropriate, meet with parents/carers and the child to clarify the incident and offer support on behalf of Member Union or Rugby Body if required (example, professional counselling).
    - Meet with the person against whom the allegation refers at an appropriate time and as directed by the relevant authority and give the person an opportunity to explain or respond to the allegation and identify any witnesses and supporting evidence. The person should have an opportunity to invite a support person/adviser to attend at a meeting and should be offered support (example, professional counselling) if necessary.
    - Obtain a signed statement and record of interview from the person.
    - Make contact with any witnesses and obtain written and signed statements outlining details of the allegation (what happened, when, how). This should only occur following advice from the relevant authority.
    - Obtain other information that could assist in making a decision on the allegation.
- The information collected during the investigation should be made available to the relevant authorities.
- Strict confidentiality, impartiality, fairness and due process must be maintained at all times.

Step 5 – Record and analyse all information

- If an internal investigation was conducted under **Step 4**, the investigator will provide a report to the Member Union.
- Irrespective of the findings of the child protection and/or police inquiries, the Conduct Committee of the Member Union 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 Conduct Committee of the Member Union and will remain separate and at arm's length from the investigator.
- The Conduct Committee will consider all the information and determine a finding. It will also recommend action and its rationale for the action.

Step 6 – Undertake disciplinary action

- For incidents of a serious or criminal nature, consideration must be given to the findings of the police and/or the government agency before making a decision on disciplinary proceedings.
- If disciplinary action is to be taken, follow the procedures outlined in Attachment C5 of the Policy.
- Implement any disciplinary decision recommended by the Conduct Committee. The action should be immediate.

- Check with the relevant state government authority to see if you need to forward a report (e.g. the NSW Commission for Children and Young People requires notification of relevant employment proceedings).
- Complete the report form in Part D of this Policy. Retain the original in a secure place.

ATTACHMENT C4: CONDUCT COMMITTEE AND APPEALS PROCEDURE

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

Conduct Committee

1. A Conduct Committee will be constituted by the Rugby Body following the procedures outlined herein, to investigate and hear a Complaint that has been referred to it by a Rugby Body.

2. The Secretary or President of the Rugby Body (or person acting in a similar or equivalent role) will organise for a Conduct Committee to be convened. The Conduct Committee members will be provided with a copy of all the relevant correspondence, reports or information received relating to the Complaint/allegations.

3. The Conduct Committee shall consist of three members nominated by the Secretary or President of the Rugby Body (or person acting in a similar or equivalent role). One of the three participants must be appointed as Chairperson.
   (a) The Conduct Committee will not include any person who has any actual or perceived conflict of interest, preconceived opinions, vested interests or personal involvement relating to the Complaint.
   (b) The Conduct Committee will comprise at least one person who has knowledge, and preferably experience, of any relevant laws relating to the Complaint.
   (c) If a member of the Conduct Committee cannot continue once the Conduct Committee Hearing has commenced, the discontinuing member may be replaced if it is considered appropriate by the Committee Chairperson. Factors to consider should include the circumstances of the Complaint and the ability of the new Conduct Committee member to be reasonably and impartially informed of the hearing evidence up until the time of their appointment. If the Committee Chairperson believes it is not appropriate for a new Conduct Committee member to be appointed then the Committee will be rescheduled to a later date. The Committee Chairperson will inform the Rugby Body of the need to reschedule, and the Rugby Body will organise for the Conduct Committee Hearing, with a new Conduct Committee to be reconvened.

4. The Conduct Committee investigation and hearing will be scheduled as soon as practicable, but must allow adequate time for the person(s) being complained about to prepare to respond to the Complaint.

5. The Rugby Body will inform the person making the Complaint (**Complainant**) and the person being complained about (**Respondent**) by written notification that a Conduct Committee hearing will take place. The written notification will outline:
   - That the person has a right to appear at the Conduct Committee hearing to defend the Complaint/allegation (whether in person or by telephone or video link);
   - Details of the Complaint (if there is more than one Complaint these should be set out separately);
   - The date, time and venue of the Conduct Committee hearing;
   - That they can make either verbal or written submissions to the Conduct Committee;
   - That they may arrange for witnesses to attend the Conduct Committee in support of their position; and
   - An outline of any possible penalties that may be imposed if the Complaint is found to be true.

   A copy of any information / documents that have been given to the Conduct Committee (eg investigation report findings) will also be provided to both the Complainant and Respondent.

6. The Respondent(s) will be allowed to participate in all Rugby Body activities and events, pending the decision of the Conduct Committee, including any available appeal process, unless the Rugby Body believes it is warranted to exclude the Respondent(s) from all or some Rugby Body activities and events, after considering the nature of the Complaint.

7. If the Complainant believes the details of the Complaint are incorrect or insufficient they should inform the Rugby Body as soon as possible so that the Respondent and the Conduct Committee members can be properly informed of the Complaint.

8. In addition, the Rugby Body must notify it applicable Member Union and the ARU about the nature of the Complaint being referred to the Conduct Committee.

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

10. After the Conduct Committee has completed the hearing, the Committee Chairperson must prepare a written statement of its factual findings, decision (including any disciplinary measures imposed) and reasons and provide copies of that statement to the Respondent(s), the Complainant, the relevant Rugby Body, the Member Union and the ARU. The letter to the Respondent(s) and the Complainant should also outline, if allowed, the process and grounds for an appeal to be made.

Appeals Procedure

11. Subject to paragraph 16, a Complainant or a Respondent may appeal:
    (a) the decision of the Conduct Committee on the grounds that a denial of Natural Justice has occurred or that the disciplinary measure(s) imposed is unjust and/or unreasonable; or
    (b) the decision of the Rugby Body not to take action,
    to the Conduct Committee of that Rugby Body's Member Union.
12. A person wanting to appeal in accordance with paragraph 11 must lodge a letter stating their intention and the basis for their appeal with the secretary of the Member Union within 10 business days of the relevant decision. If the letter of appeal is not received by the secretary of the Member Union within the relevant time period the right of appeal will lapse.

13. A Member Union which receives a letter of appeal against a decision of a Conduct Committee must notify the ARU of that appeal within 5 business days of receiving such letter.

14. Subject to ARU Intervention (as outlined below), on receipt of a letter of appeal under paragraph 13, the Member Union shall convene a Conduct Committee to review the earlier decision. Based on such review the Conduct Committee:
    (a) may refuse to hear the appeal;
    (b) may conduct a fresh investigation of the alleged breach, however it may have reference to documents prepared by a Conduct Committee in the course of the initial investigations into the alleged breach;
    (c) may confirm, modify or dismiss the decision of the Conduct Committee;
    (d) may confirm, modify or dismiss the disciplinary measure imposed (taking into account any relevant aggravating or mitigating circumstances);
    (e) must make a statement in writing stating its findings of fact, reasons and decision and send copies of that statement to the Respondent(s), the Complainant, the relevant Rugby Body and the ARU.

15. Member Unions will act promptly to conduct the review, hearing (if applicable) and issue a written statement of its findings.

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

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

ARU Intervention

18. Where the ARU receives notification of a formal Complaint from a Rugby Body, or an appeal to a Member Union under clause 13, the ARU has the right to:
    (a) declare that the investigation and hearing must be conducted by the ARU Conduct Tribunal if, in the opinion of the ARU, the Complaint negatively affects, or has potential to negatively affect, the image of the ARU or the game of Rugby; or
    (b) appoint a representative to the Conduct Committee investigating/hearing the Complaint, in place of an existing Committee member that would otherwise sit. If there is any dispute, the ARU may determine which Committee member is to be replaced by the ARU representative; or

(c) be given the opportunity to be heard by the Conduct Committee.

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

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

ARU Conduct Tribunal

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

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

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

Review of Committee decision by Tribunal

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

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

ATTACHMENT C5: DISCIPLINARY MEASURES

Any disciplinary measure imposed by Conduct Committees or the Conduct Tribunal under this Policy must:

- Observe any contractual and employment rules and requirements;
- Conform to the principles of Natural Justice;
- Be fair and reasonable;
- Be based on the evidence and information presented;
- Be within the powers of the Conduct Committee or Conduct Tribunal to impose the disciplinary measure.

Individual

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

1. A direction that the individual make a verbal and/or written apology;
2. A written warning;
3. A direction that the individual attend counselling to address their behaviour;
4. A withdrawal of any awards, placings, records, achievements bestowed in any tournaments, activities or events held or sanctioned by the Rugby Body;
5. A demotion or transfer of the individual to another location, role or activity
6. A suspension of the individual's membership or participation or engagement in a role or activity;
7. Termination of the individual's membership, appointment or engagement;
8. Recommend that the Rugby Body terminate the individual's membership, appointment or engagement;
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;
10. Any other form of discipline that Conduct Committee or Conduct Tribunal considers appropriate.

When imposing any form of discipline, it will be accompanied by a warning that a similar breach of Policy by that individual in the future may result in the imposition of a more serious form of discipline.

Organisations

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

1. A written warning;
2. A monetary fine;
3. A direction that any rights, privileges and benefits provided to that organisation by the national body or other peak association be suspended for a specified period;
4. A direction that any funding granted or given to it by a Rugby Body cease from a specified date;

5. A direction that a Rugby Body cease to sanction events held by or under the auspices of that organisation;

6. A recommendation to the Rugby Body that its membership of the Rugby Body be suspended or terminated in accordance with the relevant constitution or rules; and/or

7. Any other form of discipline that the national body or peak organisation considers to be appropriate.

When imposing any form of discipline, it will be accompanied by a warning that a similar breach of Policy by the organisation in the future may result in more serious form of discipline.

Factors to consider when imposing discipline

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

- Nature and seriousness of the behaviour or incidents;
- In a case where action is taken concurrently with or in lieu of a resolution of a formal Complaint, the wishes of the Complainant;
- If the individual concerned knew or should have known that the behaviour was a breach of the Policy;
- Level of contrition of the Respondent(s);
- The effect of the proposed disciplinary measures on the Respondent(s) including any personal, professional or financial consequences;
- If there have been relevant prior warnings or disciplinary action; and/or
- If there are any mitigating circumstances such that the Respondent(s) shouldn't be disciplined at all or not disciplined so seriously.

PART D: REPORTING DOCUMENTS/FORMS

To assist in consistency and accuracy in following procedure and reporting on the issues covered by this Policy, the following documents are to be used:

D1 Confidential Record of Complaint

D2 Confidential Record of Child Abuse Allegation

D3 Record of Mediation

D4 Record of Conduct Committee Decision

General principles to be followed when completing a report of a Complaint:

- Treat all Complaints seriously.
- Deal with Complaints promptly, sensitively and confidentially.
- Maintain a calm attitude.
- Ask the complainant if they will consent to you taking notes.
- Write the description of the Complaint /problem using the complainants own words (as much as is possible).
- Find out the nature of the relationship between the complainant and the person complained about (for example, coach/competitor, team members, etc) and if there is any relevant history.
- Take a note of the facts and do not pre-judge the situation.
- Ask the complainant whether they fear victimisation or other consequences.
- Find out what outcome the complainant wants and if they need any support.
- Ask the complainant how they want to the Complaint to be dealt with under the policy.
- Keep the Complaint confidential and do not disclose it to another person without the complainant's consent except if disclosure is required by law (for example, a report to government authorities) or if disclosure is necessary to effectively deal with the Complaint.

ATTACHMENT D1: CONFIDENTIAL RECORD OF COMPLAINT

Name of person making complaint (Complainant)	Mr/Mrs/Ms ……. ☐ Over 18 ☐ Under 18	
Complaint Nature	☐ Informal ☐ Formal	Date Complaint Received: …… /…… /…….
Role/status in Rugby	☐ Administrator ☐ Official ☐ Athlete/Player ☐ Parent ☐ Coach/Assistant Coach ☐ Spectator ☐ Employee (paid) ☐ Support Personnel ☐ Other (please specify). ……	
Complainant's Rugby Body (Club/ Union/ Association/State Union)	……..…. ……..….	
Name of person complained about (Respondent)	Mr/Mrs/Ms ……. ☐ Over 18 ☐ Under 18	
Role/status in Rugby	☐ Administrator ☐ Official ☐ Athlete/Player ☐ Parent ☐ Coach/Assistant Coach ☐ Spectator ☐ Employee (paid) ☐ Support Personnel ☐ Other (please specify). ……	
Respondent's Rugby Body (Club/ Union/ Association/State Union)	……..…. ……..….	
Description of alleged incident (including date(s), location/event, specifics of any alleged incident, any witness details etc) Attach a copy of any written complaint to this document		

Nature of alleged complaint (basis/ grounds/category) *Tick more than one box, if appropriate.*	☐ Harassment or ☐ Discrimination ☐ Sexual/Sexist ☐ Selection dispute ☐ Sexuality ☐ Personality clash ☐ Race ☐ Bullying ☐ Religion ☐ Verbal abuse ☐ Pregnancy ☐ Physical abuse ☐ Disability ☐ Victimisation ☐ Child abuse ☐ Other ……
Concerns expressed by complainant (Completing this may help to separate emotional content from facts)	
Methods (if any) of attempted informal resolution	
Support person (if any)	
Formal resolution procedures followed (if applicable) (outline)	
Outline formal resolution and date (if applicable) (Attached any correspondence in relation to the formal resolution of complaint)	
Completed by	Name: …… Position: …… Rugby Body: ……... Signature: …… Date: … …. /…… /……...

ATTACHMENT D2: CONFIDENTIAL RECORD OF CHILD ABUSE ALLEGATION

Complainant's Name (if other than the child)		Date Formal Complaint Received: / /
Role/status in Rugby		
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 Rugby	☐ Administrator (volunteer) ☐ Athlete/player ☐ Coach/Assistant Coach ☐ Employee (paid) ☐ Official	☐ Parent ☐ Spectator ☐ Support Personnel ☐ Other …… ……
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:	

MPO contacted	Who: When:
Police and/or government agency investigation	Finding:
Internal investigation (if any)	Finding:
Action taken	
Completed by	Name: …… Position: ……..…… Rugby Body: ……... Signature: …….……. Date: … …. /…… /……...
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.

ATTACHMENT D3: RECORD OF MEDIATION

Date of mediation	
Present at mediation	
Venue of mediation	
Mediator	
Summary of mediation (minutes attached)	
Outcome of mediation	
Follow-up to occur (if required)	
Completed by: (signature)	
Signed by: Complainant (signature) Respondent (signature)	

ATTACHMENT D4: RECORD OF CONDUCT COMMITTEE/CONDUCT TRIBUNAL DECISION

Complainant's Name		Date Formal Complaint Received: / /
Role/status in Rugby	☐ Administrator (volunteer) ☐ Athlete/player ☐ Coach/Assistant Coach ☐ Employee (paid) ☐ Official	☐ Parent ☐ Spectator ☐ Support Personnel ☐ Other …… ……
Name of person complained about		
Role/status in Rugby	☐ Administrator (volunteer) ☐ Athlete/player ☐ Coach/Assistant Coach ☐ Employee (paid) ☐ Official	☐ Parent ☐ Spectator ☐ Support Personnel ☐ Other …… ……
Location/event of alleged issue		
Description of alleged issue		
Nature of complaint (basis/grounds/category)	☐ Harassment or ☐ Discrimination ☐ Sexual/sexist ☐ Selection dispute ☐ Sexuality ☐ Personality clash ☐ Race ☐ Bullying ☐ Religion ☐ Verbal abuse ☐ Pregnancy ☐ Physical abuse ☐ Disability ☐ Victimisation ☐ Child Abuse Other ……	

Methods (if any) of attempted informal resolution	
Support person (if any)	
Committee Members	
Committee Hearing Date and venue	
Committee Decision (attach report)	
Action recommended and any follow up report required	
Decision Appealed Date of Appeal lodged	
Appeal Hearing Date	
Appeal Decision (attach report)	
Action Recommended	
Completed by	Name: …… Position: ……..…… Rugby Body: ……... Signature: …….……. Date: … …. /…… /……...