

Australian Swimming Inc

MEMBER PROTECTION POLICY

Approved by the Board of Australian Swimming Inc May 2002
Amended October 2002

Effective from 01 June 2002

PREFACE

Message from the President

Australian Swimming Inc is committed to the health, safety and general well being of all its members. The organisation is dedicated to providing a safe and prosperous environment for members and providers participating in any Australian Swimming activities.

As Australians, we greatly value the importance of sport in our culture and our community, and we all have the right to enjoy our sport, at whichever level we participate.

As a sport, we are proud to lead the way in ensuring Safe and Harassment-Free Sport for all of our competitors, coaches, officials, administrators, volunteers and supporters.

I commend this Member Protection Policy to you and I wish you all safe and successful swimming.

John Devitt AM

President

Australian Swimming Inc

June 2002

CONTENTS**Page****PART I – INTRODUCTION**

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

PART II – PREVENTATIVE ACTION

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

PART III – BREACHES

8.	What is Harassment?	7
9.	What is Discrimination?	9
10.	What Other Misconduct is a Breach?	10
11.	Codes of Behaviour	10
12.	What is a Breach of this Policy?.....	10
13.	Complaint Resolution Procedure.....	11
13A.	Informal Complaint Resolution Procedure.....	11
14.	Formal Complaint Resolution Procedure.....	11
15.	Suspected Breaches	13
16.	Hearings	13
17.	What Penalties may be Imposed?	15
18.	How can a Decision be Appealed?.....	16

ATTACHMENTS

Attachment A	Policy Definitions
Attachment B	Preventative Action (clauses 6 and 7) Flow Diagram
Attachment C	Complaints & Resolution Process (clauses 13A and 14) Flow Diagram
Attachment D	Hearings Tribunal Process (clause 16) Flow Diagram
Attachment E	Codes of Behaviour
Attachment F	Prohibited Person Declaration
Attachment G	Guidelines for Referee Checks
Attachment H	Contact List of ED s and MPO s
Attachment I	Record of Informal Complaint
Attachment J	Record of Formal Complaint
Attachment K	Record of Mediation
Attachment L	Record of Interview
Attachment M	Minutes of Disciplinary Hearing

ACKNOWLEDGEMENTS

PART I - INTRODUCTION

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

1 What is the Purpose of this Policy?

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

2 Who does this Policy Apply to?

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

3 What is the Status of this Policy?

- 3.1 This Policy is issued by the ASI Board.
- 3.2 Except to the extent outlined in clause 3.3, this Policy comes into force on 01 June 2002
- 3.3 The reference to Complaints in Part III shall only include Complaints which arise out of incident(s) occurring on or after 01 June 2002, **unless** the Complaint is of Harassment in which case it must arise out of an incident(s) which occurred on or after 01 January 2000.
- 3.4 This Policy may be changed from time to time by resolution of the Board.

4 What do Words in this Policy Mean?

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

5 Responsibilities under this Policy

5.1 Australian Swimming Inc and Member Associations must:

- (a) adopt and comply with this Policy;
- (b) recognise and enforce any action and/or penalty imposed under this Policy;
- (c) publish, distribute and promote this Policy (and any amendments made to it from time to time) to their members in the manner required by Australian Swimming Inc and make this Policy available for inspection, or provide a copy;
- (d) make such amendments to their constitution, rules or by laws in order for this Policy to be enforceable, as required by Australian Swimming Inc;
- (e) use any forms, contracts and clauses prescribed by Australian Swimming Inc in order to give effect to this Policy in such documents as contracts, entry forms and player registration forms, as directed by Australian Swimming Inc;
- (f) appoint at least one Member Protection Officer and one Mediator annually to fulfil the functions set out in clauses 13A, 14 and 15, and to publish and display the names and contact details of such persons to their members;
- (g) appoint a Hearings Convenor annually to fulfil the functions set out in clauses 15 and 16 and to publish and display the name of such person to their members; and
- (h) establish a Hearings Tribunal in accordance with clause 16, to fulfil the functions set out in clauses 16 and 17.

5.2 Affiliated Clubs must:

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

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

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

5.4 The Board of Australian Swimming Inc, Member Associations and Affiliated Clubs are responsible for taking all reasonable steps to ensure implementation, compliance and enforcement of this Policy.

PART II - PREVENTATIVE ACTION

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

6. What is Screening?

- 6.1 One of the ways Australian Swimming Inc, the Member Associations and the Affiliated Clubs seek to protect the health, safety and well being of people participating in their activities is to screen people for certain roles.
- 6.2 Screening (as set out in clause 6.4) is **mandatory** for Australian Swimming Inc, Member Associations and Affiliated Clubs for Preferred Applicants and Existing Appointees in the following types of roles:
- (a) coaches who are appointed or seeking appointment (whether employed, contracted or otherwise) by Australian Swimming Inc, Member Associations or Affiliated Clubs for **reward**;
 - (b) volunteer personnel appointed or seeking appointment by Australian Swimming Inc, Member Associations or Affiliated Clubs, who will or are likely to travel away with teams of competitors **under** 18 years of age; and
 - (c) persons appointed or seeking appointment by Australian Swimming Inc, a Member Association or an Affiliated Club to a role in which that person is likely to have individual and unsupervised contact with competitors **under** 18 years of age (for example, a team manager).
- 6.3 Screening is **highly recommended**, but not mandatory, for Preferred Applicants and Existing Appointees in the following types of roles:
- (a) volunteer coaches appointed or seeking appointment by Australian Swimming Inc, a Member Association or an Affiliated Club who will or are likely to travel away with teams of competitors **over** 18 years of age; and
 - (b) persons appointed or seeking appointment by Australian Swimming Inc, a Member Association or an Affiliated Club to a role in which that person is likely to have contact with competitors **under** 18 years of age but where such contact is supervised at all times by another adult.
- 6.4 For the purposes of this Policy, screening shall mean:
- (a) Checking the Preferred Applicant's referees;
 - (b) Interviewing the Preferred Applicant as to their suitability for the proposed role and their suitability for involvement with children under 18 years of age; and
 - (c) Obtaining a Police Check of the Preferred Applicant and Existing Appointees.
- 6.5 Checking the Preferred Applicant's referees includes making verbal or written inquiries of their nominated referees (preferably at least 2) as to the Preferred Applicant's suitability for the proposed role and their suitability for involvement with children under 18 years of age.
- 6.6 The purpose of a Police Check is to see whether the person has any previous relevant criminal convictions. If the Police Check reveals that the person has committed any criminal offences then the following requirements apply:
- (a) If the offence (whenever it occurred) is one involving a serious sex offence (see clause 7.2), assault against a person or an offence which in any way involved persons under 18 years of age, then:
 - (i) in the case of a Preferred Applicant, they must not be appointed to the role;

- (ii) in the case of an Existing Appointee, steps must be taken to transfer the person to another role which is not set out in clause 6.2 or if no such alternatives exist, to end the appointment of the person. **Note: legal advice should be sought before the process of termination begins.**
 - (b) If the offence is one other than those in clause 6.6(a), such as an offence to property or a minor traffic offence, then the Preferred Applicant may be appointed, subject to satisfaction of any other criteria for the role.
- 6.7 All persons to whom this Policy applies must agree to Australian Swimming Inc, the relevant Member Association or the relevant Affiliated Club obtaining a Police Check of them if they apply for or currently hold a role of the type set out in clause 6.2. The Police Check must be obtained, in the case of:
- (a) a Preferred Applicant, prior to the appointment;
 - (b) an Existing Appointee, by 31 December 2002.
- 6.7A The following procedure shall apply in relation to Police Checks:
- (a) in the event that an Affiliated Club is required to screen, the Affiliated Club shall require the Preferred Applicant or Existing Appointee to complete a Police Check application. The Police Check shall be forwarded to the Member Association from the relevant police department, who shall then advise the Affiliated Club whether the Affiliated Club may appoint the Preferred Applicant or Existing Appointee under clause 6.6(a). Thereafter, the Member Association shall either return the Police Check to the Preferred Applicant or Existing Appointee or forward it to Australian Swimming Inc for storage and disclosure of information in accordance with clause 6.8;
 - (b) in the event that a Member Association is required to screen, the Member Association shall require the Preferred Applicant or Existing Appointee to complete a Police Check application. The Police Check shall be forwarded to the Member Association from the relevant police department, who shall determine whether it may appoint the Preferred Applicant or Existing Appointee under clause 6.6(a). Thereafter, the Member Association shall either return the Police Check to the Preferred Applicant or Existing Appointee or forward it to Australian Swimming Inc for storage and disclosure of information in accordance with clause 6.8;
 - (c) in the event that Australian Swimming Inc is required to screen, Australian Swimming Inc shall require the Preferred Applicant or Existing Appointee to complete a Police Check application. The Police Check shall be forwarded to Australian Swimming Inc from the relevant police department, who shall determine whether it may appoint the Preferred Applicant or Existing Appointee under clause 6.6(a). Thereafter, Australian Swimming Inc shall either return the Police Check to the Preferred Applicant or Existing Appointee or retain it for storage and disclosure of information in accordance with clause 6.8.
- 6.8 Where a Police Check has been obtained under this Policy and forwarded to Australian Swimming Inc in accordance with clause 6.7A, another organisation which is required to screen may, for the purposes of clause 6.4, be advised by Australian Swimming Inc or a Member Association whether it may appoint the Preferred Applicant or Existing Appointee under clause 6.6(a). Disclosure by Australian Swimming Inc or a Member Association of such information will only be permitted if the consent of the person is obtained and the Police Check was obtained in the last 3 years.
- 6.9 If a Preferred Applicant or Existing Appointee is not willing to agree to a screening, Australian Swimming Inc, the relevant Member Association and/or the relevant Affiliated Club shall:
- (a) in the case of a Preferred Applicant, not appoint the person to any of the roles;
 - (b) in the case of an Existing Appointee, steps must be taken to transfer the person to another role which is not set out in clause 6.2 or if no such alternatives exist, to end the appointment of the person. **Note: legal advice should be sought before the process of termination begins.**

- 6.10 All information obtained during the course of screening (including any Police Check) must be kept confidential to the persons or committee within Australian Swimming Inc, the Member Association or the Affiliated Club who has been delegated the task of investigating and/or making the appointment for the role. Information collected during screening about a person who is not appointed to the role must be returned to the Preferred Applicant and not retained unless the Preferred Applicant agrees.
- 6.11 Successful Preferred Applicants or Existing Appointees must immediately advise, in writing, the CEO (or in their absence their Nominee) of the organisation that appointed them if they are convicted of a criminal offence.
- 6.12 Screening under this Policy is **not** a replacement for any similar requirement prescribed by law. If State screening legislation sets an equivalent or higher standard of screening to that set under this Policy, the requirement to screen under this Policy need not be followed as it would be superseded by any similar requirement prescribed by law.

7 Prohibited Person Declaration

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

7.2 In this Policy, the following words shall mean:

“**Prohibited Person**” means a person who has been convicted of a Serious Sex Offence.

“**Prohibited Person Declaration**” means a declaration in relation to Serious Sex Offences as set out in Attachment F.

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

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

- 7.3 It is **mandatory** for Australian Swimming Inc, Member Associations and Affiliated Clubs to obtain a Prohibited Person Declaration from Preferred Applicants and Existing Appointees in the following types of roles:
- (a) coaches who are appointed or seeking appointment (whether employed, contracted or otherwise) by Australian Swimming Inc, Member Associations or Affiliated Clubs for reward;
 - (b) volunteer personnel appointed or seeking appointment by Australian Swimming Inc, Member Associations or Affiliated Clubs, who will or are likely to travel away with teams of competitors under 18 years of age; and
 - (c) persons appointed or seeking appointment by Australian Swimming Inc, a Member Association or an Affiliated Club to a role in which that person is likely to have individual and unsupervised contact with competitors under 18 years of age (for example, a team manager).
- 7.4 It is a breach of this Policy for a Prohibited Person to work or seek work in the roles set out in clause 7.3.
- 7.5 It is also a breach of this Policy for Australian Swimming Inc, a Member Association or an Affiliated Club to:
- (a) in the case of a Preferred Applicant, appoint the Preferred Applicant in any of the roles set out in clause 7.3 without first obtaining a Prohibited Person Declaration or to appoint a Preferred Applicant who is a Prohibited Person;
 - (b) in the case of an Existing Appointee, to continue to appoint a Prohibited Person in the roles set out in clause 7.3.
- 7.6 The Prohibited Person Declaration must be obtained, in the case of:
- (a) a Preferred Applicant, prior to the appointment;
 - (b) an Existing Appointee, by 30 June 2002.
- 7.7 If the Prohibited Person Declaration is not provided in accordance with clause 7.6, or the Prohibited Person Declaration reveals that the person is a Prohibited Person, Australian Swimming Inc, the relevant Member Association and/or the relevant Affiliated Club must:
- (a) in the case of a Preferred Applicant, not appoint the person to any of the roles set out in clause 7.3;
 - (b) in the case of an Existing Appointee, steps must be taken to transfer the person to another role which is not set out in clause 7.3 or if no such alternatives exist, to end the appointment of the person. **Note: legal advice should be sought before the process of termination begins.**
- 7.8 All information in the Prohibited Person Declaration must be kept confidential to the persons or committee within Australian Swimming Inc, the Member Association or the Affiliated Club who has been delegated the task of requesting and reviewing the Prohibited Person Declaration.
- 7.9 Successful Preferred Applicants or Existing Appointees must immediately advise, in writing, the CEO (or in their absence their Nominee) of the organisation that appointed them, upon becoming a Prohibited Person.
- 7.10 Obtaining a Prohibited Person Declaration under this Policy is **not** a replacement for any similar requirement prescribed by law. If State legislation sets an equivalent or higher standard to that set under this Policy the requirement to obtain a Prohibited Person Declaration under this Policy need not be followed as it would be superseded by any similar requirement prescribed by law.

PART III – BREACHES

This part outlines what constitutes a breach of this policy.

8 What is harassment?

8.1 Harassment is any behaviour by a person or organisation to whom this Policy applies which is offensive, abusive, belittling or threatening and which is directed at a person or a group of people because of a particular characteristic of that person or group of people. The behaviour must be unwelcome and the sort of behaviour a reasonable person would recognise as being unwelcome and likely to cause the recipient to feel offended, humiliated or intimidated. Whether or not the behaviour is Harassment is to be determined from the point of view of the person receiving the Harassment.

8.2 Harassment includes:

- (a) Sexual Harassment (see clauses 8.3 to 8.6);
- (b) Racial Harassment (see clauses 8.7 and 8.8);
- (c) Sexuality Harassment (see clauses 8.9 to 8.11);
- (d) Disability Harassment (see clauses 8.12 and 8.13);
- (e) Abuse (see clauses 8.14 to 8.16);
- (f) Vilification (see clauses 8.17 and 8.18); and
- (g) Discrimination (see clause 9).

8.3 Sexual Harassment includes:

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

in circumstances where a reasonable person would have anticipated that the person being harassed would be offended, humiliated or intimidated.

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

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

8.5 Examples of Sexual Harassment may include:

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

- Photographing others while undressing showering or toileting.
- 8.6 Sexual Harassment may be a criminal offence, for example indecent assault, rape, sex with a minor, obscene telephone calls or letters. If you believe that an offence may have been committed you should seek legal advice and / or notify the police.
- 8.7 Racial Harassment includes harassment based on colour, descent, national or ethnic origin, cultural activity and sometimes religion.
- 8.8 Examples of Racial Harassment include:
- Jokes in which race is a significant characteristic of the “butt” of the joke;
 - Hostile comments about food eaten, dress or religious or cultural practices;
 - Inferences that all members of a racial or cultural group have particular negative characteristics, such as laziness, drunkenness, greed or sexual promiscuity;
 - Parodying accents.
- 8.9 Sexuality Harassment includes harassment based on actual or assumed homosexuality, heterosexuality, bi-sexuality or transsexuality.
- 8.10 Examples of Sexuality Harassment include:
- Jokes in which sexuality is a significant characteristic of the “butt” of the joke;
 - Hostile comments about assumed sexual practices or social activities;
 - Hostility based on assumed AIDS or HIV infection.
- 8.11 In severe cases, such as threats or acts of violence against a homosexual person, Sexuality Harassment may be a criminal offence. If you believe that an offence may have been committed you should seek legal advice and / or notify the police.
- 8.12 Disability Harassment includes harassment based on physical, mental or psychological disability or harassment of an associate or aide of a person with a disability.
- 8.13 Examples of Disability Harassment include:
- Jokes where a particular disability is a significant characteristic of the “butt” of the joke;
 - Interfering with a disability aid (e.g. hearing aid);
 - Obstructing a person in a manner that compounds his or her disability (e.g. putting obstacles in the path of a person with a vision impairment);
 - Mocking a person’s disability.
- 8.14 Abuse is a form of Harassment. It includes:
- (a) physical abuse (e.g. assault);
 - (b) emotional abuse, (e.g. blackmail, repeated requests or demands);
 - (c) neglect (e.g. failure to provide the basic physical and emotional necessities of life);
 - (d) abuse of power, which the harasser holds over the harassed.
- Examples of relationships in (d) that involve a power disparity include a coach-player, manager-player, employer-employee, doctor-patient. People in such positions of power need to be particularly wary not to exploit that power.
- 8.15 Examples of abusive behaviour include:
- Bullying and humiliation of players by coaches;
 - Verbal abuse and insults directed by players or parents at opposing participants;
 - Verbal and / or physical abuse of umpires by players and coaches.

- 8.16 Some forms of Abuse may constitute a criminal offence, for example assault and child abuse. If you believe that a criminal offence may have been committed you should seek legal advice and / or notify the police.
- 8.17 Vilification involves a person inciting hatred towards, serious contempt for, or severe ridicule of, a person or group of persons by public act. Public acts that may amount to vilification include any form of communication to the public and any conduct observable by the public. Vilification is a breach of this Policy where it is based on any of the attributes or characteristics set out in clause 9.2.
- 8.18 Some forms of Vilification may be a criminal offence, for example where harm is threatened. If you believe that a criminal offence may have been committed you should seek legal advice and / or notify the police.

9 What is Discrimination?

- 9.1 Discrimination is treating or proposing to treat a person less favourably than someone else in certain areas of public life on the basis of an attribute or personal characteristic they have.
- 9.2 The applicable attributes or characteristics are:
- Age;
 - Disability;
 - Marital status;
 - Parental/Carer status;
 - Physical features;
 - Political belief/activity;
 - Pregnancy;
 - Race;
 - Religious belief/activity;
 - Sex or gender;
 - Sexual orientation;
 - Transgender orientation.
- 9.3 The areas in which discrimination under this Policy are not permitted are in:
- (a) employment (including unpaid employment) by Australian Swimming Inc, a Member Association or an Affiliated Club;
 - (b) the provision of goods and services by Australian Swimming Inc, a Member Association or an Affiliated Club;
 - (c) the selection or otherwise of any person for competition or a team (domestic or international) by or on behalf of Australian Swimming Inc, a Member Association or an Affiliated Club;
 - (d) the entry or otherwise of any player or other person to any competition held or sanctioned by Australian Swimming Inc, a Member Association or an Affiliated Club (note the exception in clause 9.9);
 - (e) obtaining or retaining membership (including the rights and privileges of membership) of Australian Swimming Inc, a Member Association or an Affiliated Club.
- 9.4 Not only is Discrimination unlawful, but Australian Swimming Inc, the Member Associations and the Affiliated Clubs also consider it is wrong because it denies people a chance by judging them on the basis of stereotypes or assumptions about what they can or cannot achieve.

- 9.5 Discrimination includes direct discrimination and indirect discrimination. Direct Discrimination occurs if a person treats, or proposes to treat, someone with an attribute or characteristic (as outlined in clause 9.2) less favourably than the person treats or would treat, someone without that attribute or characteristic, in the same or similar circumstances. Indirect Discrimination occurs where a person imposes or intends to impose a requirement, condition or practice which on its face is not discriminatory, but has the effect of discriminating against a person(s) with a particular attribute.
- 9.6 Discrimination also includes victimisation. Victimisation is where a person is subject to, or is threatened to suffer, any detriment or unfair treatment, because that person has or intends to pursue their legal rights under anti-harassment legislation or under this Policy.
- 9.7 Requesting, assisting, instructing, inducing or encouraging another person to engage in discrimination, is also Discrimination.
- 9.8 Any behaviour or conduct that is discrimination under any Federal or State legislation is also Discrimination for the purposes of this Policy.
- 9.9 Discrimination may be permitted if an exemption under the applicable Federal or State legislation applies.

10 What Other Misconduct is a Breach?

This clause has been deleted.

11 Codes of Behaviour

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

12 What is a Breach of this Policy?

- 12.1 It is a breach of this Policy for any person or organisation to whom this Policy applies to:
- (a) Fail to comply with any of the responsibilities set out in clauses 5.1, 5.2 and 5.4;
 - (b) Appoint, or continue to appoint, a person to a role set out in clause 6.2:
 - (i) without first undertaking screening (see clause 6.4); and
 - (ii) where the Police Check reveals the person has committed an offence of the type set out in clause 6.6(a);
 - (c) Appoint, or continue to appoint, a person to a role set out in clause 7.3:
 - (i) without first obtaining a Prohibited Person Declaration; or
 - (iii) where the Prohibited Person Declaration reveals the person is a Prohibited Person;
 - (d) Where the person is a Prohibited Person, to work or seek work in the roles set out in clause 7.3;
 - (e) Engage in any form of Harassment;
 - (f) Make a frivolous, vexatious or malicious Complaint under this Policy;
 - (g) Fail to enforce a penalty imposed by a Hearings Tribunal under clause 17.
- 12.2 Any circumstances that may be a breach may be the subject of a Complaint and/or be investigated and referred to a hearing under clause 16.

13 Complaint Resolution Procedure

- 13.1 Any person or organisation may make a complaint about a person or organisation to whom this Policy applies, if they consider that person or organisation has, or may have, committed a breach of any part of this Policy (a “Complaint”).
- 13.2 The Complaint always belongs to the complainant, who will also determine how their Complaint is dealt with and is not divulged to another person without the complainant’s agreement, except in the case where a person is required by law to report the matter to governmental authorities (for example, in the case of suspected child abuse).

13A Informal Complaint Resolution Procedure

- 13A.1 It is not necessary to provide a written Complaint under this clause.
- 13A.2 A person or organisation that has a Complaint (“a complainant”) may seek to resolve the Complaint informally. The complainant **may** make an initial approach to:
- (a) a Member Protection Officer;
 - (b) the CEO (or in their absence their Nominee) of Australian Swimming Inc, the relevant Member Association or the relevant Affiliated Club; or
 - (c) another appropriate person within the organisation (e.g. team manager, coach etc).
- 13A.3 If the person approached is a Member Protection Officer, they may:
- (a) listen to and advise the complainant about their possible options; and/or
 - (b) act as a support person for the complainant, including supporting them through any mediation process undertaken to resolve the Complaint.
- 13A.4 The Member Protection Officer will:
- (a) keep the matter confidential and only discuss it with those people whom the complainant has authorised them to speak to about the Complaint;
 - (b) inform the relevant governmental authority, if required by law.
- 13A.5 If the complainant wishes to try and resolve the Complaint by mediation, the Member Protection Officer will arrange for a mediator (either the Mediator of Australian Swimming Inc or the relevant Member Association, or a relevant third person) to mediate the Complaint.
- 13A.6 The Mediator shall:
- (a) notify the person complained about that an informal Complaint has been made and provide them with details of the Complaint;
 - (b) attempt to mediate a resolution between the complainant and the person complained about.
- 13A.7 If an agreed resolution is reached between the complainant and the person complained about, the Complaint shall be deemed to have been withdrawn and no further action in relation to that Complaint may be taken (except for that which is agreed) under this Policy.
- 13A.8 If following the process in clause 13.A6 the Complaint is not resolved informally, the complainant may make a formal Complaint under clause 14.
- 13A.9 Nothing in this Policy prevents the complainant taking action under State or Federal legislation.

14 Formal Complaint Resolution Procedure

- 14.1 In order for a Complaint to be dealt with in accordance with this clause, a Complaint must be made in writing (however it need not be called or referred to as a Complaint). In addition, a person or organisation, other than the complainant, may provide information verbally under clause 15.1.
- 14.2 A written Complaint must be made to one of the following people:

- (a) a Member Protection Officer of Australian Swimming Inc or the relevant Member Association (a list of the Member Protection Officers must be made available to any person

requesting such list and shall be displayed at the premises of Australian Swimming Inc, Member Associations and Affiliated Clubs); or

- (b) the CEO (or in their absence their Nominee) of Australian Swimming Inc, the relevant Member Association or the relevant Affiliated Club.

- 14.3 If a person listed in clause 14.2 receives a Complaint and that Complaint alleges Harassment, then they must do the following:
- (a) If such person is not a Member Protection Officer, they shall forward such Complaint as soon as possible to a Member Protection Officer at either Australian Swimming Inc or the Member Association, whichever organisation the person complained about holds the highest role.
 - (b) The Member Protection Officer must then ask the complainant whether s/he wishes them to:
 - (i) listen to and advise the complainant about their possible options; and/or
 - (ii) act as a support person for the complainant, including supporting them through any mediation process undertaken to resolve the Complaint; or
 - (iii) refer the Complaint to the Hearing Convenor at Australian Swimming Inc or the relevant Member Association, whichever organisation the person complained about holds the highest role, for a hearing to be held under clause 16 (if mediation is not a relevant / appropriate option).
 - (c) Having determined the complainant's wishes in clause 14.3(b), the Member Protection Officer will:
 - (i) act in accordance with the complainant's direction in relation to the options set out in clause 14.3(b);
 - (ii) keep the matter confidential and only discuss it with those people whom the complainant has authorised them to speak to about the Complaint;
 - (iii) inform the relevant governmental authority, if required by law.
- 14.4 If the complainant wishes to try and resolve the Complaint by mediation, the Member Protection Officer shall immediately notify the Mediator of Australian Swimming Inc or the Member Association that a Complaint has been made and provide them with a copy of the written Complaint. If an attempt to mediate was made under clause 13A.6, the Mediator under this clause cannot be the same person.
- 14.5 The Mediator shall:
- (a) notify the person complained about, in writing, that a Complaint has been made and provide them with a copy of the written Complaint;
 - (b) attempt to mediate a resolution between the complainant and the person complained about.
- 14.6 If an agreed resolution is reached between the complainant and the person complained about, the Complaint shall be deemed to have been withdrawn and no further action in relation to that Complaint may be taken (except for that which is agreed) under this Policy.
- 14.7 If following the process in clause 14.5 an agreed resolution is **not** reached and with the complainant's agreement, the Mediator shall refer the Complaint to the Hearings Convenor at Australian Swimming Inc or the relevant Member Association, whichever organisation the person complained about holds the highest role, for a hearing to be held under clause 16.
- 14.8 If a complainant withdraws the Complaint (which alleges Harassment), no further action in relation to that Complaint may be taken (unless required by law) under this Policy.

14.9 To avoid any doubt, any Complaint relating to an Affiliated Club shall be referred to the Member Protection Officer and / or Hearings Convenor of the Member Association of which the Affiliated Club is a member or affiliate.

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

15 Suspected Breaches

15.1 If a Complaint is not received, but the CEO (or in their absence their Nominee) of Australian Swimming Inc, a Member Association or an Affiliated Club, or a Member Protection Officer of Australian Swimming Inc or a Member Association receives information (whether or not in writing) which gives them reasonable cause to suspect that a breach of this Policy may have been committed, then he or she shall do the following:

- (a) if the information gives them reasonable cause to suspect a breach of this Policy involving Harassment, then such person shall use their reasonable endeavors to advise the person who is suspected of being subject to Harassment, of the complaints procedures under this Policy;
- (b) if the information gives them reasonable cause to suspect a breach of this Policy other than Harassment, then he or she shall refer the information to the Hearings Convenor at Australian Swimming Inc or the relevant Member Association, whichever organisation the person complained about holds the highest role, for a hearing to be held under clause 16.

15.2 Clause 14.9 also applies to this clause.

15.3 Except as otherwise provided in this Policy, all information obtained by the CEO, their Nominee, the Member Protection Officer, the Mediator or the Hearings Convenor in accordance with this clause must be kept confidential.

16 Hearings

16.1 Where the Hearings Convenor at Australian Swimming Inc or a Member Association receives:

- (a) a Complaint referred to it under clause 14.3(b)(iii) or 14.7; or
- (b) information referred to it under clause 15.1(b),

he or she shall follow the procedures set out in this clause.

16.2 Upon receipt of the Complaint or the information, the Hearings Convenor shall as soon as possible do the following:

- (a) Determine the composition of the Hearings Tribunal, as detailed in clause 16.3;
- (b) Send to the person complained about:
 - (i) a notice setting out the alleged breach including details of when/where it is alleged to have occurred; and
 - (ii) a notice setting out the date, time and place for the hearing of the alleged breach which shall be as soon as reasonably practicable after receipt of the Complaint or information;
 - (iii) a copy of the Complaint or the information received if in writing; ("referred to as Notice of Alleged Breach");
- (c) Send to the complainant(s) and the Chairperson of the Hearings Tribunal a copy of the Notice of Alleged Breach.

16.3 The Hearings Tribunal for each hearing shall be appointed by the Board of Directors (however described) of Australian Swimming Inc or the relevant Member Association and shall comprise of the following persons:

- (a) a barrister or solicitor (who shall be the Chairperson) or, if after reasonable attempts have been made to obtain one without success, then a person with considerable previous experience in the legal aspects of a disciplinary / hearings tribunal ;

- (b) a person with a thorough knowledge of the sport;
- (c) one other person of experience and skills suitable to the function of the Hearings Tribunal,

provided that such persons do not include:

- (i) a person who is a member of the Board of Directors (however described) of the organisation which appoints the Hearings Tribunal; or
- (ii) a person who would, by reason of their relationship with the complainant or the person complained about, be reasonably considered to be other than impartial.

16.4 Frivolous, vexatious or malicious Complaints

- (a) If within 48 hours of sending the Notice of Alleged Breach, the person complained about alleges in writing to the Hearings Convenor that the Complaint is frivolous, vexatious or malicious, the Chairperson shall as a preliminary issue, determine whether or not such Complaint is frivolous, vexatious or malicious and shall advise the parties of his or her determination.
- (b) The Hearings Convenor shall provide to the other parties to the hearing (see clause 16.6) a copy of the written allegation made by the person complained about, that the Complaint is frivolous, vexatious or malicious.
- (c) The Chairperson shall determine such preliminary issue as soon as practicable and in whatever manner the Chairperson considers appropriate in the circumstances provided that he or she does so in accordance with the principles of natural justice.
- (d) The decision of the Chairperson under this clause 16.4 may be appealed within 48 hours of the determination to the relevant appeal body under clause 18.

16.5 The Hearings Tribunal shall hear and determine the alleged breach in whatever manner it considers appropriate in the circumstances (including by way of teleconference, video conference or otherwise) provided that it does so in accordance with the principles of natural justice. The purpose of the hearing shall be to determine whether the person complained about has committed a breach of this Policy. If the Hearings Tribunal considers that the person complained about has committed a breach of this Policy, it may impose any one or more of the penalties set out in clause 17.

16.6 The parties to the hearing shall include the complainant, the person complained about and the relevant organisation (being Australian Swimming Inc, the relevant Member Association and/or the relevant Affiliated Club) and any witnesses, which any such party wishes to have participate in the hearing.

16.7 If upon receipt of the Notice of Alleged Breach, the Hearings Tribunal considers that pending the determination of the matter the person complained about may put at risk the safety and welfare of the complainant or others, it may order that the person complained about be:

- (a) suspended from any role they hold with Australian Swimming Inc, the relevant Member Association and/or the relevant Affiliated Club; and/or
- (b) banned from any event or activities held by or sanctioned by Australian Swimming Inc, the Member Associations and/or the Affiliated Clubs; and/or
- (c) required not to contact or in any way associate with the complainant or other person about whom the alleged breach relates,

pending the determination of the hearing.

- 16.8 There is no right of appeal of the decision by a Hearings Tribunal under clause 16.7.
- 16.9 Any party to the hearing may be represented at the hearing by any person, including a legal representative.
- 16.10 Each party to the hearing shall bear their own costs in relation to the hearing.
- 16.11 The Hearings Tribunal shall give its decision as soon as practicable after the hearing and will deliver to the following a statement of its written reasons:
- (a) the CEO of the organisation which established the Hearings Tribunal;
 - (b) the complainant;
 - (c) the person complained about; and
 - (d) any other party represented in the hearing.
- 16.12 Except as otherwise provided in this Policy, all members of the Hearings Tribunal shall keep all matters relating to the hearing (including but not limited to the nature of the Complaint, information obtained before and during the hearing and the decision of the Hearings Tribunal) confidential.
- 16.13 To the extent of any inconsistency between the hearing procedure set out in the constitution of Australian Swimming Inc or the Member Associations and the hearing procedure set out in this Policy, this Policy shall prevail in relation to all Complaints under this Policy.

17 What Penalties may be Imposed?

- 17.1 If the Hearings Tribunal considers that a person or organisation to whom this Policy applies, has breached this Policy, it may impose any one or more of the following penalties:

17.1.1 **For breaches committed by organisations:** If the Hearings Tribunal considers that Australian Swimming Inc, a Member Association, an Affiliated Club or any other organisation has breached this Policy, it may impose any one or more of the following penalties on such organisation:

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

17.1.2 **For breaches committed by individual persons:** If the Hearings Tribunal considers that an individual person to whom this Policy applies has breached this Policy, it may impose any one or more of the following penalties on such person:

- (a) direct that the offender attend counselling to address their conduct;
- (b) recommend that Australian Swimming Inc, the relevant Member Association and/or the relevant Affiliated Club terminate the appointment of the role which the offender holds with such organisation;

- (c) where there has been damage to property, direct that the offender pay compensation to the relevant organisation which controls or has possession of the property;
- (d) impose a monetary fine for an amount determined by the Hearings Tribunal;
- (e) impose a warning;
- (f) in the case of a coach, direct the relevant organisation to de-register the accreditation of the coach for a period or indefinitely;
- (g) withdraw any awards, placings, records won in any tournaments, activities or events held or sanctioned by Australian Swimming Inc, a Member Association or an Affiliated Club;
- (h) direct the offender to repay all or part of any financial assistance (excluding any fee for service, wages or expenses) given to them by the Australian Sports Commission, any Federal or State funding agency, the Australian Olympic Committee, Australian Swimming Inc, a Member Association, an Affiliated Club or any other organisation which has provided funding;
- (i) any other such penalty as the Hearings Tribunal considers appropriate.

17.2 If an organisation or individual commits a second or subsequent breach under this Policy, then the Hearings Tribunal shall have regard to the previous breach, the penalty imposed and any other relevant factors, in imposing a penalty for the second or subsequent breach.

17.3 If a penalty is imposed by the Hearings Tribunal under clause 17.1, the CEO of the organisation from which the Hearings Tribunal is established shall as soon as possible notify in writing Australian Swimming Inc and each Member Association of such penalty. Notification of such penalty to the Member Association shall be deemed to be notification to all Affiliated Clubs which are members of or affiliated to the Member Association.

17.4 Every organisation to which this Policy applies shall recognise and enforce any decision and penalty imposed by a Hearings Tribunal under this Policy.

18 How can a Decision be Appealed?

18.1 Any party to a hearing held under clause 16 (including an organisation) may appeal a decision of a Hearings Tribunal.

18.2 An appeal shall be made to the following Appeal Body:

- (a) an appeal against a decision of a Hearings Tribunal established by a Member Association, shall be made to the Hearings Tribunal of Australian Swimming Inc;
- (b) an appeal against a decision of a Hearings Tribunal established by Australian Swimming Inc, shall be made to the appeal division of the Court of Arbitration for Sport (Oceania Registry) ("CAS").

(referred to as the "Appeal Body").

18.3 There is only one right of appeal following the decision of the initial Hearings Tribunal. Any appeal must be solely and exclusively resolved by the Appeal Body and the decision of such Appeal Body is final and binding on the parties. It is agreed that no party to such appeal may institute or maintain proceedings in any court or tribunal other than the relevant Appeal Body. **Note: This provision does not prevent any person or organisation taking action under State or Federal legislation.**

18.4 The process for such appeal is as follows:

- (a) the party wishing to appeal ("the Appellant") shall within 72 hours of the Hearings Tribunal delivering its decision:
 - (i) advise, in writing, the CEO of the organisation of the relevant Appeal Body of their intention to appeal ("Notice of Intention to Appeal"); and

- (ii) in the case of an appeal to CAS from a decision of a Hearings Tribunal established by Australian Swimming Inc, complete and file an application to appeal with CAS in accordance with the Code of Sports Related Arbitration; and
- (b) for all appeals, except those to CAS, as soon as possible after receipt of the Notice of Intention to Appeal, the Hearing Convenor of the organisation of the relevant Appeal Body shall appoint a Hearings Tribunal to hear and determine the appeal, which shall comprise of persons in accordance with clause 16.3; and
- (c) within 5 days of lodging the Notice of Intention to Appeal, (or such shorter time as determined by the Appeal Body if there is urgency) the Appellant shall:
 - (i) pay the appeal fee to the Chairperson of the Appeal Body, which shall be \$110.00 (including GST) which is non-refundable, except for an appeal to CAS which shall be as per the Code of Sports-Related Arbitration applicable to CAS; and
 - (ii) submit to the Chairperson of the Appeal Body or CAS (as the case may be), the grounds of the appeal in writing and provide copies to the other party, to the CEO of the organisation which established the Hearings Tribunal who made the decision which is the subject of the appeal and the CEO of the organisation which established the Appeal Body.

If either of the requirements in this sub-clause are not met by the due time the appeal shall be deemed to be withdrawn;

- (d) on completion of the procedures in (a) to (c), the Chairperson of the Appeal Body shall determine a place, time and date for the hearing of the appeal and as soon as possible thereafter notify all parties to the appeal in writing of such details; and
- (e) the procedure for the appeal shall be the same as the procedure for the Hearings Tribunal set out in clause 16 except where the Appeal Body is CAS, in which case the Code of Sports-Related Arbitration shall apply.

18.5 Upon hearing the appeal, the Appeal Body may do any one or more of the following:

- (a) dismiss the appeal;
- (b) uphold the appeal;
- (c) impose any of the penalties set out in clause 17;
- (d) reduce, increase or otherwise vary any penalty imposed by the initial Hearings Tribunal.

18.6 The Appeal Body has no power to award costs and each party shall bear their own costs in relation to any appeal.

18.7 To the extent of any inconsistency between the hearing appeal procedure set out in the constitution of Australian Swimming Inc or the Member Associations and the hearing appeal procedure set out in this Policy, this Policy shall prevail in relation to all Complaints under this Policy.

ATTACHMENT A

POLICY DEFINITIONS

“Abuse” means a form of Harassment, as more specifically set out in clauses 8.14 to 8.16.

“Affiliated Clubs” means those clubs or organisations (howsoever described), which are a member of or affiliated to a Member Association

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

“CEO” means the chief executive officer of an organisation, howsoever described (may include the executive officer, general manager or other similar title).

“Codes of Behaviour” means the codes of behaviour developed and issued by Australian Swimming Inc as set out in Attachment E.

“Complaint” means a complaint made under clauses 13, 13A, 14 and 15.

“Constitution” means the statement of purposes and rules or constitution of Australian Swimming Inc as amended from time to time.

“Disability Harassment” means a form of Harassment, as more specifically set out in clauses 8.12 and 8.13.

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

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

“Harassment” has the meaning set out in clause 8.

“Hearings Convenor” means a person appointed in accordance with clause 5.1(g), who is responsible for the administration of hearings by the Hearings Tribunal.

“Hearings Tribunal” means the tribunal of Australian Swimming Inc or a Member Association established to hear and determine alleged breaches and appeals under this Policy.

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

“Member Associations” means those entities which are members of Australian Swimming Inc in accordance with its Constitution

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

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

“Policy” and **“this Policy”** means this Member Protection Policy.

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

“Racial Harassment” means a form of Harassment, as more specifically set out in clauses 8.7 and 8.8.

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

“Sexuality Harassment” means a form of Harassment, as more specifically set out in clauses 8.9 to 8.11.

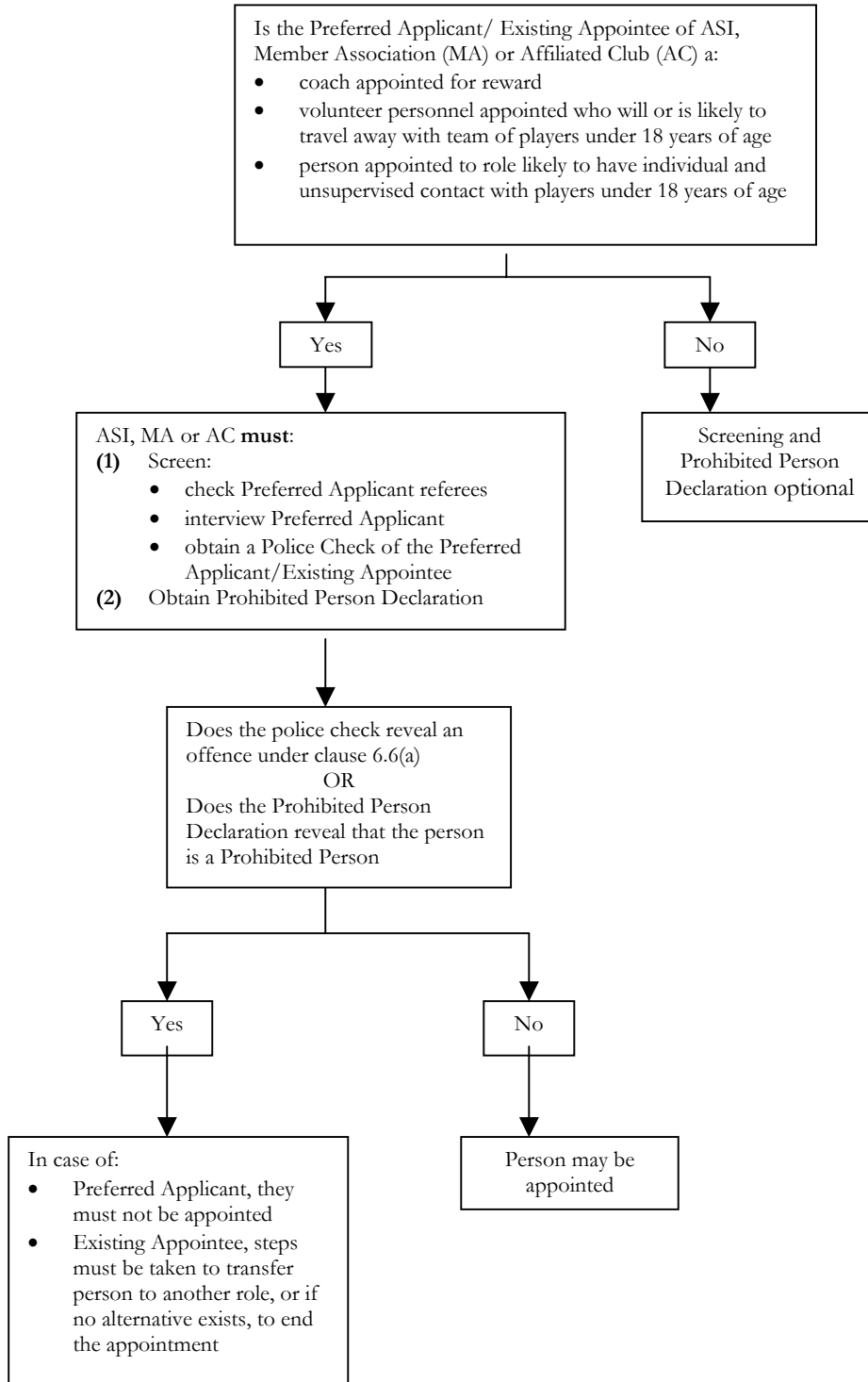
“their Nominee” means the person who is, under the constitution of the relevant organisation, empowered to act in the CEO’s absence.

“Vilification” means a form of Harassment, as more specifically set out in clauses 8.17 and 8.18.

ATTACHMENT B

PREVENTATIVE ACTION (CLAUSES 6 AND 7) FLOW DIAGRAM

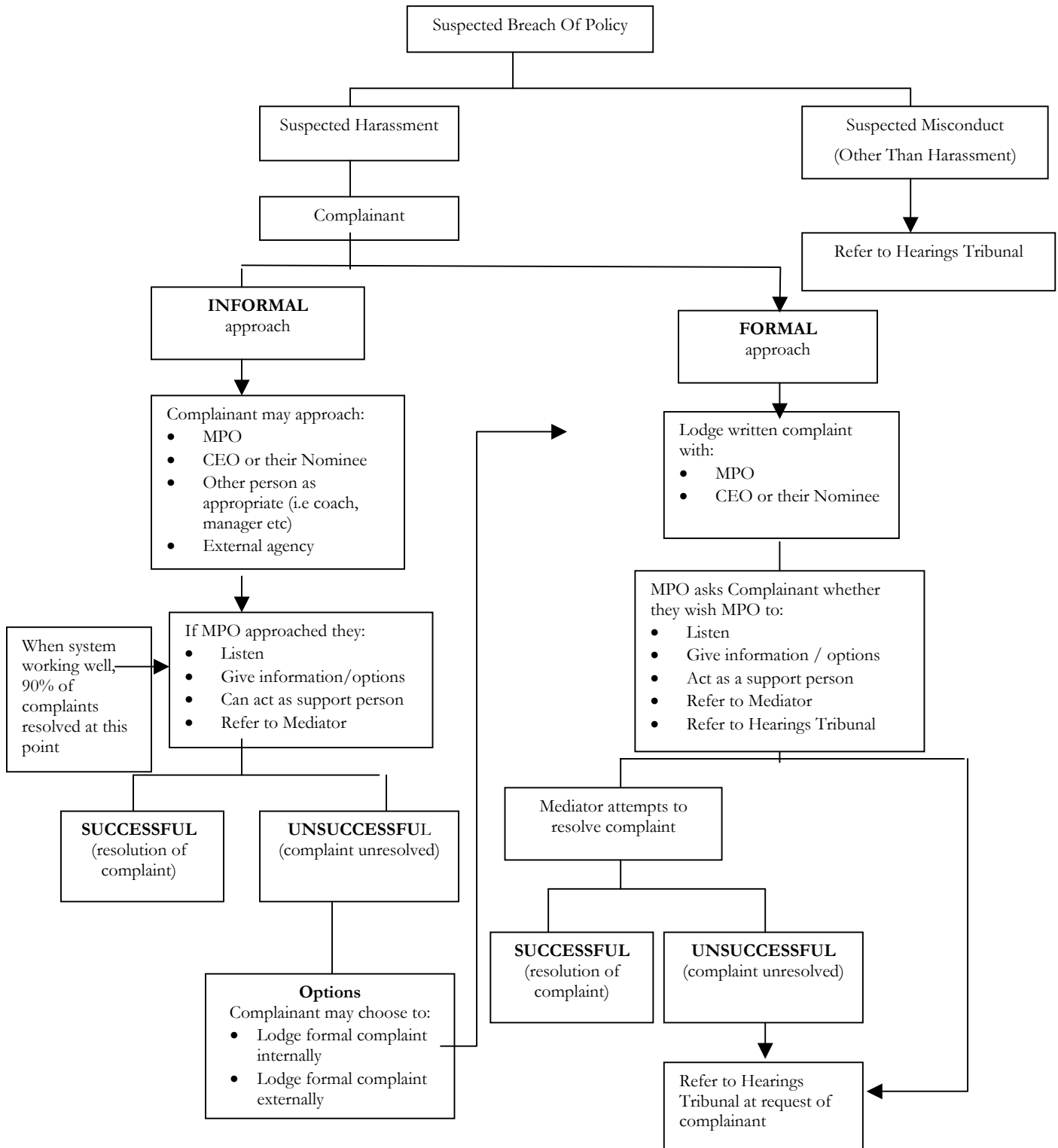
Attachment B has been included in this Policy by way of summary and it is not to be used for the interpretation of this Policy



ATTACHMENT C

COMPLAINTS & RESOLUTION PROCESS (CLAUSES 13A AND 14) FLOW DIAGRAM

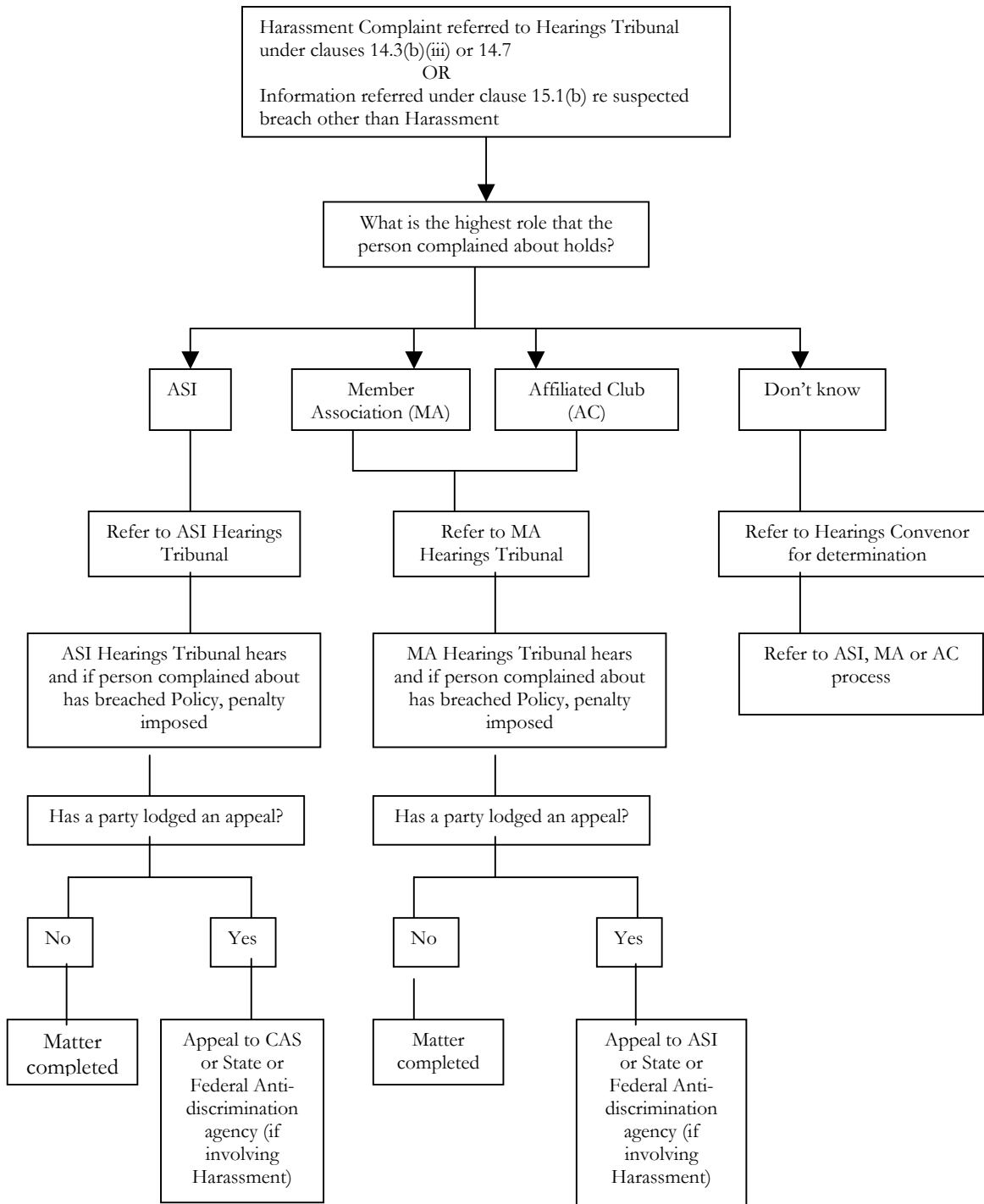
Attachment C has been included in this Policy by way of summary and it is not to be used for the interpretation of this Policy



ATTACHMENT D

HEARINGS TRIBUNAL PROCESS (CLAUSE 16) FLOW DIAGRAM

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



ATTACHMENT E

General Code of Behaviour

Australian Swimming Inc endorses the following code of conduct for members, service providers and employees, particularly those responsible for activities involving members under the age of 18 years.

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

- Respect the rights, dignity and worth of others.
- Be fair, considerate and honest in all dealings with others.
- Be professional in, and accept responsibility for, your actions.
- Make a commitment to providing quality service.
- Be aware of, and maintain an uncompromising adherence to, Australian Swimming Inc standards, rules and policies.
- Operate within the rules of swimming including national and international guidelines that govern Australian Swimming Inc.

Australian Swimming Inc expects all members, service providers and employees to abide by this code of conduct, which upholds the principles and values of the organisation. They should recognise that at all times they have a responsibility, and a duty of care to other members, service providers and Australian Swimming Inc employees.

Specifically, they should:

- Understand the possible consequences of breaching Australian Swimming Inc's member protection policy.
- Immediately report any breaches of the Australian Swimming Inc member protection policy to the appropriate authority.
- Refrain from any form of abuse towards others.
- Refrain from any form of harassment toward others.
- Refrain from any form of discrimination toward others.
- Refrain from intimate relations with members with whom they have a supervisory role or power over.
- Refrain from any form of victimisation toward others.
- Provide a safe environment for the conduct of activities in accordance with any relevant Australian Swimming Inc policy.
- Show concern and caution toward others that may be sick or injured.
- Be a positive role model.

Administrator Code of Behaviour**Administrator/director/officer/employee/contractor will:**

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

Coach and Manager Code of Behaviour

A coach or team official* will:

- Agree to abide by the code of conduct.
- Be responsible for matters concerning the coaching, training and development of members.
- Maintain a 'duty of care' towards others and accountability for matters relating to training and competition.
- Have a sound working knowledge of Australian Swimming Inc policies, rules and coaching techniques.
- Ensure that any physical contact with others is appropriate to the situation and necessary for the persons skill development
- Provide a safe environment for training and competition.
- Be a positive role model for members of Australian Swimming Inc
- Make a commitment to providing a quality service.

* this also applies to team support staff (eg. medical, physiotherapy and dietician staff)

A team manager/age manager will:

- Agree to abide by the code of conduct.
- Be responsible for the overall welfare and well being of team members and officials when travelling with a team.
- Maintain a 'duty of care' towards team members and accountability for the management of the team.
- Have a sound knowledge of Australian Swimming Inc policies, responsibilities and competition rules, and ensure that the conduct of the affairs of the team is in accordance with these policies and guidelines.
- Foster a collaborative approach to the management of the team.

Competitor Code of Behaviour

- Play by the rules.
- Never argue with an official. Always use the appropriate rules and guidelines to resolve a dispute.
- Control your temper. Verbal abuse of officials and sledging other players, deliberately distracting or provoking an opponent are not acceptable or permitted behaviours in any sport.
- Work equally hard for yourself and/or your team..
- Be a good sport. Applaud all good performances whether they are made by your team or the opposition.
- Treat all participants in your sport as you like to be treated. Do not bully or take unfair advantage of another competitor.
- Cooperate with your coach, team mates and opponents.
- Participate for your own enjoyment and benefit, not just to please parents and coaches.
- Respect the rights, dignity and worth of all participants regardless of their gender, ability, cultural background or religion.

Technical Official Code of Behaviour

- Compliment and encourage all participants.
- Be consistent, objective and courteous when making decisions.
- Condemn unsporting behaviour and promote respect for all opponents.
- Emphasise the spirit of competition rather than the errors.
- Encourage and promote rule changes, which will make participation more enjoyable.
- Be a good sport yourself. Actions speak louder than words.
- Keep up to date with the latest trends in officiating and the principles of growth and development of young people.
- Remember, you set an example. Your behaviour and comments should be positive and supportive.
- Place the safety and welfare of the participants above all else.
- Give all young people a 'fair go' regardless of their gender, ability, cultural background or religion.

Parent / Guardian Code of Behaviour

- Remember that children participate in sport for their enjoyment, not yours.
- Encourage children to participate, do not force them.
- Focus on the child's efforts and performance rather than winning or losing.
- Encourage children always to play according to the rules and to settle disagreements without resorting to hostility or violence.
- Never ridicule or yell at a child for making a mistake or losing a competition.
- Remember that children learn best by example. Appreciate good performances and skilful plays by all participants.
- Support all efforts to remove verbal and physical abuse from sporting activities.
- Respect officials' decisions and teach children to do likewise.
- Show appreciation for coaches, officials and administrators. Without them, your child could not participate.
- Respect the rights, dignity and worth of every young person regardless of their gender, ability, cultural background or religion.

Spectator Code of Behaviour

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

ATTACHMENT F
PROHIBITED PERSON DECLARATION

The Australian Swimming Inc Member Protection Policy makes it a breach of the policy for a Prohibited Person (defined as a person who has been convicted of a Serious Sex Offence) to work or seek work in the following roles:

- coaches who are appointed or seeking appointment (whether employed, contracted or otherwise) for reward;
- volunteer personnel appointed or seeking appointment, who will or are likely to travel away with teams of competitors under 18 years of age; and
- persons appointed or seeking appointment to a role in which that person is likely to have individual and unsupervised contact with competitors under 18 years of age (for example, a team manager).

The Australian Swimming Inc Member Protection Policy also makes it a breach of the policy to appoint, or continue to appoint, a person to a role set out above:

- without first obtaining this declaration; or
- where this declaration reveals the person is a Prohibited Person.

The Australian Swimming Inc Member Protection Policy defines a Serious Sex Offence to mean an offence involving sexual activity or acts of indecency including but not limited to:

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

Declaration

I am aware that I am ineligible to work or seek work in the roles set out above if I have been convicted of a Serious Sex Offence, as defined in the Australian Swimming Inc Member Protection Policy.

I have read and understood the above information in relation to the Australian Swimming Inc Member

Protection Policy and understand my responsibilities and obligations under it.

I declare that I am not a person prohibited under the Australian Swimming Inc Member Protection Policy from working or seeking work in the roles set out above.

I acknowledge that I am required to advise the CEO or most senior manager of the organisation appointing me, immediately upon becoming a Prohibited Person.

Name	Signature	Date
------	-----------	------

Note: Seek legal advice if you are unsure of your status.

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
------	-----------	------

ATTACHMENT G

GUIDELINES FOR CONDUCTING REFEREE CHECKS

Structured referee checks

Referee checks are a collection of employment related information concerning past work performance obtained from supervisors or other people with a direct personal knowledge of current or previously held positions.

Application forms should require the applicant to provide contact details for a minimum of two (2) referees. These referees must be able to provide information about the applicants work performance and good character. If the applicant is currently employed, one referee should be the applicants current supervisor, unless acceptable reasons are provided for not nominating that person.

If the applicant is unemployed, the applicant's most recent supervisor should be nominated and one other. If the applicant has never been employed, he/she may provide contact details of persons who are able to provide reliable character references.

If the applicant fails to provide the information on the required referees in the application form, the applicant will be requested to do so by the selection panel. If the applicant is unable, or chooses not, to provide the specified referees (for example, in the case where the applicant does not wish the current employer to be aware that he/she is seeking other employment), the applicant's previous employer may be given as a referee.

Questions Of Referees

The scope of questions to be asked of referees would be aimed at obtaining information on the applicants work performance and good character, covering areas such as:

- ◆ general employment - dates, positions held and principal duties
- ◆ behaviour and performance
- ◆ skills and personal qualities
- ◆ knowledge, strengths and weaknesses, and areas for improvement

any unsatisfactory aspects of performance which are relevant to the position for which they have applied.

Responsibility For Referee Checks

Referee checking is an important part of screening under the Member Protection Policy. Because of its importance, and the necessity to maintain the integrity and confidentiality of the checking process, referee checks should be conducted by those responsible for the employment of the individual and who have had appropriate training.

Increasing The Reliability Of Reference Checks - Methods Of Obtaining References

It is preferable that references be obtained orally. Telephone references are the most efficient way of obtaining information from referees. Written references provided by an applicant with the resume are of limited value since they provide general information not specific to the position and the comments are usually favourable or vague.

Structuring Reference Checks

Structured reference checks can increase reliability by focusing on specific job-related questions. Structured questions may be similar to the questions asked of the applicant at interview and should seek behavioural examples of the past conduct of an applicant in situations likely to be experienced in the position under consideration.

Subjectivity

It is important to note that the reliability and effectiveness of references may be diminished by:

- ◆ faulty recollection by referees due to passage of time or lack of preparation;
- ◆ the subjective basis upon which the reference is given;
- ◆ incomplete assessments where past positions did not require the level of behaviour or performance of all skills required for the advertised position; and
- ◆ the difficulty of comparing performance based on different levels of skills or behaviour required in past positions.

The selection committee should ensure that all relevant information about applicants relates directly to the job. The panel should guard against the tendency to seek supervisor or referee comments to confirm the conclusions of the selection panel.

Steps In Conducting The Reference Check

The following steps are suggested for conducting reference checks.

- ◆ After the interviews have been completed, determine the most competitive applicants under consideration.
- ◆ Prepare structured questions to ask the referees. Include questions to clarify any areas of concern regarding an applicant or to confirm information provided by the applicant during the interview.
- ◆ It is preferable that the recruiter/member of the selection panel contacts the referees, clearly identifying him/herself to the nominated referees and outlining the reason for the enquiry.
- ◆ The capacity in which the referee is acting (that is, the position the referee holds and current or previous relationships with the recommended applicant) should be established at the beginning of the reference process and any conflicts of interest declared at this stage of the process.
- ◆ Only questions that relate to the selection criteria and the applicant's work performance and good conduct, as well as special qualifications and aptitude for the discharge of the duties should be asked.
- ◆ A written record of all relevant information provided by the referee must be retained.
- ◆ Information obtained from referees must be discussed with the other members of the selection panel to enable fully informed decisions to be made based on all available information.

**ATTACHMENT H
CONTACT DETAILS**

Australian Swimming Inc	Chief Executive Officer: Glenn Tasker Manager Corporate Services: Brendan Lynch	(02) 6256 9666
Queensland Swimming Association	Chief Executive Officer: Kev Hasemann	(07) 3390 2011
New South Wales Swimming Association	Executive Director: Julie Gordon	(02) 9552 2966
Swimming Victoria	Executive Director: Ron Bongetti	(03) 9686 5222
Tasmanian Swimming Inc.	Acting General Manager: Corrina Travers	(03) 6231 6171
SwimSA	General Manager: Graham Sampson	(08) 8269 5595
Western Australian Swimming Association	Executive Director: Ian Scott	(08) 9328 4599
Northern Territory Swimming Association	Programs Manager: Clare Labowitch	(08) 8985 3607
Australian Swimming Coaches and Teachers Association	Executive Director: Michael Ursu	(02) 6041 6077
Australian Sports Commission		(02) 6214 1960
Commonwealth Human Rights and Equal Opportunity Commission		(02) 9284 9600
SA Equal Opportunity Commission		(08) 8207 1977 Freecall: 1800 188 163
Queensland Anti Discrimination Commission		(07) 3247 0900
ACT Human Rights Office		(02) 6207 0576
VIC Equal Opportunity Commission		(03) 9281 7111
WA Commission for Equal Opportunity		(08) 9216 3900
NSW Anti Discrimination Board		(02) 9268 5544
NT Anti Discrimination Commission		(08) 8981 3813
Tasmanian Anti Discrimination Commission		(03) 6233 4817

**ATTACHMENT I
RECORD OF INFORMAL COMPLAINT POLICY BREACH**

Complainant's Name:	
Position/Status with Australian Swimming Inc and/or member state/ territory:	
Aggrieved person's Name (if different to complainant):	
Position/status with Australian Swimming Inc an/or member state/ territory:	
Name of person allegedly in breach of the policy: (only to be completed in the event that complaint proceeds to formal complaint status under the membership protection policy)	
Location/ event of alleged policy breach:	
Nature of complaint of policy breach:	
PROCEDURAL STEPS: <ol style="list-style-type: none"> 1. Interview with aggrieved person 2. Interview with person allegedly in breach of policy 3. Confrontation of person allegedly in Breach of policy by aggrieved person alone 4. Confrontation of person allegedly in Breach of policy by aggrieved Person in presence of support Person 5. Confrontation of person allegedly in Breach of policy by support person 6. Mediation of complaint 7. Record of mediation must be completed 	COMMENTS:
Finding Action Taken Signed Chief Executive Officer Date	

**ATTACHMENT J
RECORD OF FORMAL COMPLAINT OF POLICY BREACH**

Complainant's Name	
Position	
Name of aggrieved person (if different to the complainant)	
Respondent's name	
Nature of alleged incident	
Methods (if any) of attempted informal resolution	
Support person	
Formal resolution procedures followed as per policy	
Complaint substantiated / unsubstantiated	
Finding	
Disciplinary action taken (if any)	
<p>Signed:</p> <p>Representative Australian Swimming Inc and /or member state:</p> <p>Aggrieved person:</p> <p>Complainant:</p> <p>Respondent:</p>	

**ATTACHMENT K
RECORD OF MEDIATION**

Present at mediation	
Date of mediation	
Location of mediation	
Mediator	
Minutes of mediation (attached)	<i>(Add summary of mediation here)</i>
Outcome of mediation	
<p>Signed:</p> <p>Chief Executive Officer:</p> <p>Aggrieved person:</p> <p>Membership Protection Officer:</p> <p>Complainant:</p> <p>Respondent:</p> <p>Date</p>	

**ATTACHMENT L
RECORD OF ANY INTERVIEW PERTAINING TO POLICY BREACH**

Date of interview		Venue:	
Start time:		Finish time:	
Interviewer Position		Interviewee	
<i>File Number</i>			

(Interviewees Relationship to Breach)

- Aggrieved person*
- Complainant*
- Respondent*
- Witness*

Other/s present:

(Relationship to Interviewee / Breach)

Purpose of interview:

-
-
-
-

Alleged incident:

Nature of policy breach/es:

Minutes of Interview:

Signed

Interviewer:

Date:

Interviewee:

Date:

Other/s:

Date:

File Date:

**ATTACHMENT M
MINUTES OF DISCIPLINARY COMMITTEE HEARING OF POLICY BREACH**

Date		Venue:	
Start time:		Finish time:	
Chairperson		Note taker:	

Committee chair:

Committee present:

Aggrieved person:

Complainant:

Respondent:

Witnesses:

Nature of policy breach/es:

Section of policy

Submission of complaint/s by the complainant or aggrieved person:

(Notes on submission)

Supporting Evidence/ Witnesses

(Notes on submission)

Respondents Submission

(Notes on submission)

Supporting Evidence/ Witnesses

(Notes on submission)

Outline of Mediation Attempts:

Committee Findings:*(Notes on Findings)***Policy breach:**

Substantiated / Unsubstantiated

Finding/s:**Disciplinary action/s: (if required)****If required:**

The Committee chair will outline appeal procedures as per Australian Swimming Inc's constitution.

Notes:*(Summary)*

Signed
Committee chairperson:**Date:****Aggrieved person:****Date:****Complainant:****Date:****Respondent:****Date:**

ACKNOWLEDGEMENTS

Australian Swimming Inc would like to acknowledge the following organisations for their assistance in formulating this policy:

- Australian Sports Commission
- Australian Sports Commission: *Harassment-free sport guidelines: Protecting children from abuse in sport*
- Rigby Cooke Lawyers
- Lander and Rogers
- Surf Lifesaving Australia
- Softball Australia
- Chamberlains Law Firm
- NSW Department of Sport and Recreation
- Member States and Affiliate Organisations

**This document is owned by Australian Swimming Inc and its stakeholder members.
Reproduction in part or full is prohibited without the written permission of
Australian Swimming Inc.**