

Cycling Australia

# National Member Protection Policy

April 2018





## PREFACE

Cycling Australia (CA) is committed to providing a safe, fair and inclusive sporting environment.

CA's Member Protection Policy (MPP) is an essential tool in the organisation's risk management strategy. The policy has been developed in conjunction with the Australian Sports Commission (ASC) as a resource for the protection of our members, including Member States and Territories, clubs and individuals including members, administrators, coaches and officials.

### **Member protection involves:**

- (a)** protecting members from harassment, discrimination, vilification, abuse and other forms of inappropriate behaviour; and
- (b)** ensuring the right people are involved in our organisation and in sport

The policy will explain

- » the complaints handling process; and
- » the disciplinary action that will be taken for any breaches

The safety and well-being of every member in the Australian cycling community is integral to the future of our sport. We need to have practices and procedures that create safe, welcoming and enjoyable environments.

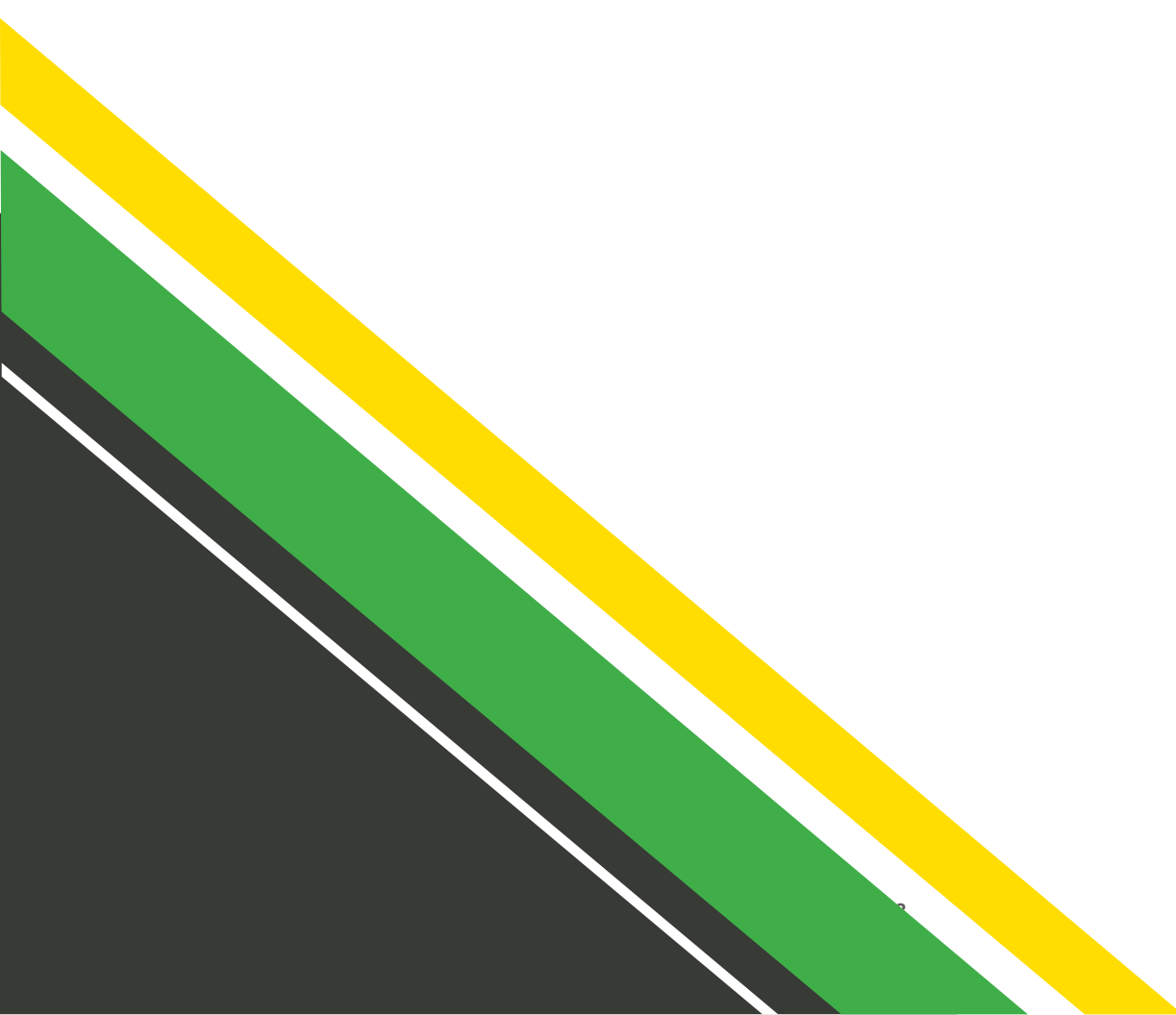
We must meet legislative requirements, such as anti-discrimination and child protection laws, identify the potential for any incidents relating to harassment and abuse of our members and develop strategies to reduce the likelihood or severity of its occurrence.

The co-operation of Member States and Territories and clubs to effectively communicate and implement this policy across all members is critical.

CA takes all matters in relation to member protection seriously and will educate, enforce and assist with its delivery and implementation.

PART A

# National Member Protection Policy





## 1. INTRODUCTION

A central goal of Cycling Australia (CA) is to develop the sport of cycling throughout Australia and internationally for the safety and enjoyment of its participating members.

CA is committed to providing a sport and work environment free of harassment and discrimination. CA aims to ensure the core values, good reputation and positive behaviours and attitudes of CA are maintained. CA believes that anyone who works for it, and everyone with whom it deals, has the right to be treated with respect and dignity. CA will not tolerate any type of behaviour, which will bring the sport of Cycling into disrepute, and this policy is an essential part of CA's proactive and preventative approach to tackling inappropriate behaviour. CA will therefore take all complaints seriously, and will ensure they are dealt with promptly, sensitively and with confidentiality.

CA is committed to ensure that everyone associated with the organisation complies with this policy.

## 2. PURPOSE OF THIS POLICY

This National Member Protection Policy (Policy) aims to assist CA to uphold its core values and create a safe, fair and inclusive environment for everyone associated with our sport. It sets out our commitment to ensure that every person involved in our sport is treated with respect and dignity and protected from discrimination, harassment and abuse. It ensures that everyone involved in our sport is aware of their legal and ethical rights and responsibilities, as well as the standards of behaviour expected of them.

The policy attachments describe the practical steps we will take to eliminate discrimination, harassment, child abuse and other forms of inappropriate behaviour from our sport. As part of this commitment, CA will take disciplinary action against any person or organisation bound by this policy if they breach it.

This policy has been based on the Australian Sports Commission (ASC) template and endorsed by the board of CA. The policy commenced on 27 July 2017 and was updated on 3 May 2018. It will operate until replaced. This policy and/or its attachments may be amended from time to time by a resolution of the Board in accordance with the CA Constitution. Copies of the policy and its attachments can be obtained from CA's office, or website at [www.cycling.org.au](http://www.cycling.org.au).



### 3. WHO THIS POLICY APPLIES TO

This policy applies to the following organisations and individuals:

- » Cycling Australia;
- » Member States and Territories;
- » Affiliated Clubs
- » Persons appointed or sitting on boards, committees and sub-committees of CA or Member States and Territories;
- » Employees, officials and volunteers appointed or elected by CA or Member States and Territories;
- » Support personnel (e.g. managers, physiotherapists, psychologists, masseurs, sport trainers);
- » Coaches (including assistant coaches) who:
  - » are appointed and/or employed by CA or a Member State or Territory (whether paid or unpaid);or
  - » have an agreement (whether or not in writing) with CA or a Member State or Territory;
- » Cyclists who participate in any activity or event (including camps and training sessions) which are held or sanctioned by CA or a Member State or Territory;
- » Any person or organisation, who or which is a member of, or affiliated to, CA or a Member State or Territory;
- » Any other person or organisation who, or which agrees in writing or otherwise to be bound by this policy; and
- » 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 CA if disciplinary action against that person has commenced.

### 4. RESPONSIBILITIES OF THE ORGANISATION

**CA and Member States or Territories must:**

- » adopt, implement and comply with this policy;
- » ensure that this policy is enforceable;
- » publish, distribute and promote this policy and the consequences of breaches;
- » deal with any complaints made under this policy in an appropriate manner;
- » deal with any complaints made under this policy in an appropriate manner;
- » promote and model appropriate standards of behaviour at all times;
- » recognise and enforce any penalty imposed under this policy; and
- » ensure that a copy of this policy is available or accessible to the persons and associations to whom this policy applies.
- » use appropriately trained people to receive and manage complaints and allegations; and
- » monitor and review this policy at least annually.

### 5. INDIVIDUAL RESPONSIBILITIES

**Individuals bound by this policy must:**

- » make themselves aware of the contents of this policy;
- » comply with all relevant provisions of the policy, including any codes of conduct and the steps for making a complaint or reporting possible child abuse set out in this policy;
- » consent to screening requirements set out in this policy and any state/territory Working with Children checks if the person holds or applies for a role that involves regular unsupervised contact with a child or young person under the age of 18 or where otherwise required by law;
- » place the safety and welfare of children above other considerations;
- » be accountable for their behaviour;
- » comply with any decisions and/or disciplinary measures imposed under this policy.



## 6. POSITION STATEMENTS

### 6.1 Child Protection

CA has zero tolerance for child abuse. We are committed to the best interests of children and keeping those who participate in our sport or access our service safe. We support the rights of the child and will act without hesitation to ensure a child safe environment is maintained at all times. We also support the rights and wellbeing of our staff and volunteers and encourage their active participation in building and maintaining a secure environment for all participants. We recognise under-represented groups including aboriginal, culturally and linguistically diverse backgrounds and children with a disability. We acknowledge that our staff, members and volunteers provide a valuable contribution to the positive experiences of children involved in our sport. We aim to continue this and to take measures to protect the safety and welfare of children participating in our sport by:

#### 6.1.1 Identify and Analyse Risk of Harm

We will develop and implement a risk management strategy, including a review of our existing child protection practices, to determine how child-safe our organisation is and to identify any additional steps we can take to minimise and prevent the risk of harm to children because of the actions of an employee, volunteer or another person. (Refer to the CA Child Safe Policy for further information.)

#### 6.1.2 Develop Codes of Conduct for Adults and Children

We will develop and promote a code of behavior that sets out the conduct we expect of adults when they deal and interact with children involved in cycling, especially those in the our care. We will also implement a code of conduct to address appropriate behaviour between children.

The codes of conduct will set out professional boundaries, ethical behaviour and unacceptable behaviour. (Refer to Part B of this Policy)

#### 6.1.3 Choose Suitable Employees and Volunteers

We will ensure that the organisation takes all reasonable steps to ensure that it engages the most suitable and appropriate people to work with children, especially those in positions that involve regular unsupervised contact with children. This will include using a range of screening measures.

CA, the Member States and Territories and Affiliates, will ensure that Working with Children Checks criminal history assessments are conducted for employees and volunteers working with children, where an assessment is required by law.

If a criminal history report is obtained as part of their screening process we will handle this information confidentially and in accordance with relevant legal requirements. (Refer to Part C of this Policy)

#### 6.1.4 Support, Train, Supervise and Enhance Performance

We will ensure that volunteers and employees who work with children or their records have ongoing supervision, support and training such that their performance is developed and enhanced to promote the establishment and maintenance of a child-safe environment.

### **6.1.5 Empower and Promote the Participation of Children in Decision-Making and Service Development**

We will encourage children and young people to be involved in developing and maintaining a child-safe environment for our sport.

### **6.1.6 Report and Respond Appropriately To Suspected Abuse and Neglect**

We will ensure that all our employees and volunteers are able to identify and respond appropriately to children at risk of harm and that they are aware of their responsibilities under state laws to make a report if they suspect on reasonable grounds that a child has been, or is being, abused or neglected. (Refer to Part E of this policy.)

Further, if any person believes that another person or organisation bound by this policy is acting inappropriately towards a child, or is in breach of this policy, he or she may make an internal complaint. (Refer to Part D of this policy.)

## **6.2 Taking Images of Children**

There is a risk that images of children may be used inappropriately or illegally. CA requires that individuals and Member States and Territories, wherever possible, obtain permission from a child's parent guardian before taking an image of a child that is not their own. They should also make sure the parent/guardian understands how the image will be used.

To respect people's privacy, we do not allow camera phones, videos and cameras to be used inside changing areas, showers and toilets which we control or are used in connection with our sport.

When using a photo of a child, we will not publish personal information, such as residential address, email address or telephone number, without the consent of the child's parent/guardian. We will not provide information about a child's hobbies, interests, school or the like, as this can be used by paedophiles or other persons to "groom" a child.

We will only use images of children that are relevant to our sport and we will ensure that they are suitably clothed in a manner that promotes participation in the sport. We will seek permission from the parents/guardians of the children before using the images. We require our Member States and Territories and clubs to do likewise.

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

CA is committed to providing an environment in which people are treated fairly and equitably and that is, as far as practicable, free from all forms of discrimination and harassment.

We recognise that people may not be able to enjoy themselves or perform at their best if they are treated unfairly, discriminated against or harassed.

### **6.3.1** Discrimination unlawful discrimination involves the less favourable treatment of a person on the basis of one or more of the personal characteristics protected by state or federal anti-discrimination laws.

The personal characteristics protected by anti-discrimination laws include attributes such as race, age, disability, gender and race. The full list of protected personal characteristics is in the "Definitions" set out in the Dictionary of Terms.



Discrimination can be either direct or indirect.

- » Direct discrimination occurs if a person treats, or proposes to treat, a person with a protected personal characteristic unfavourably because of that personal characteristic.
- » Indirect discrimination occurs if a person imposes, or proposes to impose, a requirement, condition or practice that will disadvantage a person with a protected personal characteristic and that requirement, condition or practice is not reasonable.

For the purposes of determining discrimination, the offender's awareness and motive are irrelevant.

### **6.3.2 Harassment**

Harassment is any unwelcome conduct, verbal or physical, that intimidates, offends or humiliates another person and which happens because a person has a certain personal characteristic protected by State or Federal anti-discrimination legislation.

The offensive behaviour does not have to take place a number of times; a single incident can constitute harassment.

Sexual harassment is one type of harassment. Sexual harassment is unwelcome conduct, remarks or innuendo of a sexual nature. It covers a wide range of behaviours and can be verbal, written, visual or physical. Sexual harassment is not limited to members of the opposite sex.

### **6.3.3 Prohibition against discrimination and harassment**

We prohibit all forms of harassment and discrimination based on the personal characteristics listed in the "Definitions" set out in the Dictionary of Terms [see clause 10].


Any person who believes they are being, or have been, harassed or discriminated against by another person or organisation bound by this policy is encouraged to raise their concerns with us. A person may make an internal complaint, and in some circumstances, they may also be able to make a complaint to an external organisation. (Refer to the attachments in Part D of this policy.)

## **6.4 Intimate Relationships**

CA understands that consensual intimate relationships (including, but not limited to sexual relationships) between coaches or officials and adult athletes may take place legally. However, this policy will help ensure that the expectations of coaches or officials are clear and, to ensure that if an intimate relationship does exist or develop between a coach or official and an adult athlete, that relationship will be managed in an appropriate manner.

Coaches and officials are required to conduct themselves in a professional and appropriate manner in all interactions with athletes. In particular, they must ensure that they treat athletes in a respectful and fair manner, and that they do not engage in sexual harassment, bullying, favoritism or exploitation.





We take the position that consensual intimate relationships between coaches or officials and the adult athletes they coach should be avoided as they can have harmful effects on the athlete involved, on other athletes and coaches and on the sport's public image. These relationships can also be perceived to be exploitative due to the differences in authority, power, maturity, status, influence and dependence between the coach or official and the athlete.

We recommend that if an athlete attempts to initiate an intimate relationship with a coach or official, the coach or official should discourage the athlete's approach and explain to the athlete why such a relationship is not appropriate.

If a consensual intimate relationship does exist or develop between an adult athlete and a coach or official, the coach or official is expected to ensure that the relationship is appropriate and that it does not compromise impartiality, professional standards or the relationship of trust the coach or official has with the athlete and/or other athletes.

In assessing the appropriateness of an intimate relationship between a coach or official and an adult athlete, relevant factors include, but are not limited to:

- » the relative age and social maturity of the athlete;
- » any potential vulnerability of the athlete;
- » any financial and/or emotional dependence of the athlete on the coach or official;
- » the ability of the coach or official to influence the progress, outcomes or progression of the athlete's performance and/or career;
- » the extent of power imbalance between the athlete and coach or official; and the likelihood of the relationship having an adverse impact on the athlete and/or other athletes.

It will often be difficult for a coach or official involved in an intimate relationship with an adult athlete to make an objective assessment of its appropriateness and accordingly they are encouraged to seek advice from the Member Protection Information Officer to ensure that they have not involved themselves in inappropriate or unprofessional conduct.


If it is determined that an intimate relationship between a coach or official and an adult athlete is inappropriate or unprofessional we may take disciplinary action against the coach or official up to and including dismissal. Action may also be taken to stop the coaching relationship with the athlete. This could include a transfer, a request for resignation or dismissal from coaching duties.

If a coach, official or athlete believes they are being, or have been, harassed they are encouraged to seek information and support from the Member Protection Information Officer. Our complaints procedure is outlined in Part D of this policy.

## **6.5 Pregnancy**

CA is committed to treating pregnant women fairly and to removing any unreasonable barriers to their full participation in our sport. We will not tolerate any discrimination or harassment against pregnant women.

CA will take reasonable care to ensure the continuing safety, health and wellbeing of pregnant women. We will advise pregnant women that there may be risks involved with their continuing participation in sport, and we will encourage them to obtain medical advice about those risks. Pregnant women should be aware that their own health and wellbeing, and that of their unborn child, is of utmost importance in their decision-making about the extent they choose to participate in our sport.



We encourage all pregnant women to talk with their medical advisers, make themselves aware of the facts about pregnancy in sport and ensure that they make informed decisions about their participation in our sport. Pregnant women should make these decisions themselves, in consultation with their medical advisers and in discussion with CA

We will only require pregnant women to sign a disclaimer in relation to their participation in our sport whilst they are pregnant if all other participants are required to sign one in similar circumstances. We will not require women to undertake a pregnancy test.

If a pregnant women feels she has been harassed or discriminated against by another person or organisation bound by this Policy, she may make a complaint (refer to Attachment D1 of this policy).

## **6.6 Gender Identity**

Gender identity means the gender-related identity, appearance or mannerisms or other gender-related characteristics of a person. This includes the way people express or present their gender and recognises that a person's gender identity may be an identity other than male or female. Some terms used to describe a person's gender identity include trans, transgender and gender diverse.

### **6.6.1 Gender identity discrimination and harassment**

Federal, state and territory anti-discrimination laws provide protection from discrimination against people on the basis of their gender identity. (See definition in Dictionary of terms).

CA is committed to providing a safe, fair and inclusive sporting environment all where people can contribute and participate. We will not tolerate any unlawful discrimination or harassment of a person because of their gender identity.

All persons, regardless of gender identity, are entitled to be treated fairly and with dignity and respect at all times. We will not tolerate any unlawful discrimination or harassment of a person because of their gender identity. This includes discrimination or harassment of a person who is transgender or transsexual, who is assumed to be transgender or transsexual or has an association with someone who has or is assumed to be transgender or transsexual. (Refer to the attachments in Part D of this policy.)

We expect all people bound by this policy to act with sensitivity when a person is undergoing gender transition/affirmation.


If any person believes that they are being, or have been, harassed or discriminated against by another person or organisation bound by this policy because of their gender identity, they may make a complaint.

### **6.6.2 Participation in sport**

CA recognises that excluding people from participating in cycling events and activities because of their gender identity may have significant implications for their health, wellbeing and involvement in community life.

In the case of club or inter-club events we support participation on the basis of the gender with which a person identifies.

In the case of participation at State, National and International levels CA will apply the International Olympic Committee (IOC) criteria for selection and participation. Where a transgender person intends to compete



at these levels, we will encourage them to obtain advice about the IOC's criteria which may differ from the position we have taken.

Drug testing procedures and prohibitions also apply to people who identify as transgender. 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.

### **6.6.3 Intersex status**

Federal anti-discrimination law, and some state and territory anti-discrimination laws, provide protection from discrimination against a person on the basis of their intersex status. (See Dictionary of terms).

CA is committed to providing a safe, fair and inclusive sporting environment where all people can contribute and participate. We will not tolerate any unlawful discrimination or harassment of a person because of their intersex status.

## **6.7 Responsible Service and Consumption of Alcohol**

CA is committed to conducting sporting and social events in a manner that promotes the responsible service and consumption of alcohol. We also recommend that Member States and Territories and member clubs follow strict guidelines regarding the service and consumption of alcohol.

### **In general, our policy is that:**

- » alcohol should not be available or consumed at sporting events involving children and young people under the age of 18;
- » alcohol-free social events be provided for young people and families;
- » food and low-alcohol and non-alcoholic drinks be available at events we hold or endorse where alcohol is served;
- » a staff member is present at events we hold or endorse where alcohol is served to ensure appropriate practices in respect of the consumption of alcohol are followed;
- » safe transport options be promoted as part of any event we hold or endorse where alcohol is served.

## **6.8 Smoke Free Environment**

CA is committed to providing a safe and healthy environment at all sporting events that we hold or endorse.

### **In general, our policy is that:**

- » No smoking shall occur at or near any sporting event or competition involving persons under the age of 18. This policy shall apply to coaches, players, trainers, officials and volunteers.
- » Social functions shall be smoke free, with smoking permitted at designated outdoor smoking areas.
- » Coaches, officials, trainers, volunteers and players will refrain from smoking and remain smoke free while involved in an official capacity for any of the Member States and Territories or Affiliates on and off the bike.



## 6.9 Bullying

CA is committed to providing an environment that is free from bullying. We understand that bullying has the potential to result in significant negative consequences for an individual's health and wellbeing, and we regard bullying in all forms as unacceptable in our sport.

Bullying is characterised by repeated, unreasonable behaviour directed at a person, or group of persons, that creates a risk to health and safety. Bullying behaviour is that which a reasonable person in the circumstances would expect to victimise, humiliate, undermine, threaten, degrade, offend or intimidate a person. Bullying behaviour can include actions of an individual or a group.

Whilst generally characterised by repeated behaviours, one-off instances can amount to bullying.

The following types of behaviour, where repeated or occurring as part of a pattern of behaviour, would be considered bullying:

- » verbal abuse including shouting, swearing, teasing, making belittling remarks or persistent unjustified criticism;
- » excluding or isolating a group or person;
- » spreading malicious rumours; or
- » psychological harassment such as intimidation.

Bullying includes cyber-bullying which occurs through the use of technology. New technologies and communication tools, such as smart phones and social networking websites, have greatly increased the potential for people to be bullied through unwanted and inappropriate comments.

CA will not tolerate abusive, discriminatory, intimidating or offensive statements being made online. Frustration at a referee, teammate, coach, club, Member State or Territory, or CA should never be communicated on social networking websites. These issues should instead be addressed – in a written or verbal statement or a complaint – to the relevant club, or state body.


If any person believes they are being, or have been, bullied by another person or organisation bound by this policy, he or she may make a complaint. (Refer to the attachments in Part D of this policy.)

## 6.10 Social Networking

CA acknowledges the enormous value of social networking to promote our sport and celebrate the achievements and success of the people involved in our sport.

Social networking refers to any interactive website or technology that enables people to communicate and/or share content via the internet. This includes social networking websites such as Facebook and Twitter.

We expect all people bound by this policy to conduct themselves appropriately when using social networking sites to share information related to our sport.



In particular, social media activity including, but not limited to, postings, blogs, status updates, and tweets:

- » must not contain material which is, or has the potential to be, offensive, aggressive, defamatory, threatening, discriminatory, obscene, profane, harassing, embarrassing, intimidating, sexually explicit, bullying, hateful, racist, sexist or otherwise inappropriate;
- » must not contain material which is inaccurate, misleading or fraudulent;
- » must not contain material which is in breach of laws, court orders, undertakings or contracts;
- » should respect and maintain the privacy of others; and
- » should promote the sport in a positive way.

## **6.11 Social Networking Communication**

As part of Cycling Australia's emphasis on athlete safety, communications involving our youth players should be appropriate, productive, and transparent. Effective communication concerning travel, practice or game schedules, and administrative issues among administrators, coaches, players and their families is critical. However, the use of mobile devices, web-based applications, social media, and other forms of electronic communications increases the possibility for improprieties and misunderstandings and also provides potential offenders with unsupervised and potentially inappropriate access to participants. The improper use of electronic communications can result in disciplinary proceedings.

### **Guidelines**

- » Coaches, staff and administrators must liaise directly with the parent or must copy parents on all electronic and mobile communications to minor athletes.
- » To ease communications, set-up e-mail and texting groups with parents and athletes and make this group communication a norm for your organization. Include parents on all email and text messaging groups.
- » Should any member of your group inadvertently send an athlete an electronic or mobile communication without including the parent(s) or guardian(s), acknowledge the oversight to the parents and forward the communication to the parents as soon as possible.
- » Speak with a parent or guardian if coaches or staffs receive any electronic and mobile communications from athletes or other participants that make them uncomfortable.

## 7. COMPLAINTS PROCEDURES

### 7.1 Complaints

CA aims to provide a simple, confidential and trustworthy procedure for resolving complaints based on the principles of procedural fairness.

Any person (a complainant) may report a complaint about a person, people or organisation bound by this policy (respondent) if they feel they have been discriminated against, harassed, bullied or there has been any other breach of this policy.

In the first instance, complaints should be reported to the to the CEO or his/her nominee via **complaints@cycling.org.au**

Should the CEO (or nominee) believe that he/she has a conflict of interest with the complaint or any person associated with the complaint, he/she will ensure the matter is referred to another suitable person in the organisation.

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 Member State or Territory in the first instance
- » club level, or involves people operating at the club level, then the complaint should be reported to and handled by the relevant club in the first instance.

Only matters that relate to, or which occurred at, the national level, as well as serious cases referred from the state and club level, should be dealt with by the national body.

A complaint may be handled informally or formally. The complainant may indicate his or her preferred option and the Complaints Officer should consider whether that is an appropriate way to handle the particular complaint. For example, the law may require that the complaint/allegation be reported to an appropriate authority.

All complaints will be dealt with promptly, seriously, sensitively and confidentially. Our procedures for handling and resolving complaints are outlined in Attachment [D1].

Individuals and organisations may also seek to have their complaint handled by an external agency under anti-discrimination, child protection, criminal or other relevant legislation.

### 7.2 Improper Complaints & Victimisation

CA aims to ensure that our complaints procedure has integrity and is free of unfair repercussions or victimisation against any person making a complaint.

We will take all necessary steps to make sure that people involved in a complaint are not victimised. Disciplinary measures may be undertaken in respect of a person who harasses or victimises another person for making a complaint or supporting another person's complaint.

If at any point in the complaint handling process the CEO (or nominee) considers that a complainant has knowingly made an untrue complaint, or the complaint is malicious or inappropriately intended to cause distress to the respondent, the matter may be referred in writing to the Tribunal for review and appropriate action, including possible disciplinary action against the complainant.

### 7.3 Mediation

CA aims to resolve complaints quickly, fairly and with a minimum of fuss. Complaints may be resolved 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 mediator. Mediation allows those involved to be heard and to come up with mutually agreed solutions

Mediation may occur before or after the investigation of a complaint. If a complainant wishes to resolve the complaint with the help of a mediator, the Complaint Officer will, where he or she determines it to be appropriate, arrange for a neutral third party mediator where possible.

Lawyers are not able to negotiate on behalf of the complainant and/or the respondent. More information on the mediation process is outlined in attachment [D2].

### 7.4 Ethics and Integrity Hearing

The CA Ethics and Integrity committee may hear complaints which have been referred to it by the CEO (or his/her nominee), whether instituted as formal or informal complaints under this policy,.

All matters considered by the CA Ethics and Integrity committee will be considered in accordance with the policy as set out in Attachment D4 shall be followed.

The CEO (or nominee) has discretion to determine whether a Complaint or allegation is to be:

- » referred to the CA Ethics and Integrity Committee; or
- » not suitable for referral to the Ethics and Integrity Committee.

Every organisation bound by this policy will recognise and enforce any decision made, and form of discipline imposed, by the Ethics and Integrity Committee .

## 8. WHAT IS A BREACH OF THIS POLICY?

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

- » breaching the Code of Conduct (part B to this policy);
- » failing to follow CA policies (including this policy) and procedures for the protection, safety and welfare of children;
- » discriminating against, harassing or bullying (including cyber bullying) any person;
- » victimising another person for reporting a complaint;
- » engaging in a sexually inappropriate relationship with a person that they supervise, or have influence, authority or power over;
- » verbally or physically assaulting another person, intimidating another person or creating a hostile environment within the sport;
- » disclosing to any unauthorised person or organisation any CA information that is of a private, confidential or privileged nature;
- » making a complaint they knew to be untrue, vexatious, malicious or improper;
- » failing to comply with a penalty imposed after a finding that the individual or organisation has breached this policy; or
- » failing to comply with a direction given to the individual or organisation during the discipline process.

## 9. DISCIPLINARY MEASURES

### 9.1 Objectives

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

- » be applied consistent with any contractual and employment rules and requirements;
- » be fair and reasonable;
- » be based on the evidence and information presented and the seriousness of the breach; and
- » be determined in accordance with CA's or a relevant affiliate's Constitution, By Laws, this policy and/or Rules of the sport of cycling.

### 9.2 Individual

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

- » A direction that the individual make a verbal and/or written apology;
- » A written warning;
- » A direction that the individual attend counselling to address their behaviour;
- » A withdrawal of any awards, scholarships, placing, records, achievements bestowed in any tournaments, activities or events held or sanctioned by CA;
- » A demotion or transfer of the individual to another location, role or activity;
- » A suspension of the individual's membership or participation or engagement in a role or activity;
- » Termination of the individual's membership, appointment or engagement;
- » A recommendation that CA terminate the individual's membership, appointment or engagement;
- » 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;
- » A fine; or
- » Any other form of discipline that the designated person or tribunal considers appropriate.

### 9.3 Organisation

If a finding is made that a Member State or Territory, or Affiliated Club has breached its own Member Protection Policy or this Policy, one or more of the following forms of discipline may be imposed by the designated person or tribunal:

- » A written warning;
- » A fine;
- » A direction that any rights, privileges and benefits provided to that organisation by CA or the relevant Member State or Territory be suspended for a specified period;
- » A direction that any funding granted or given to it by CA or the relevant Member State or Territory cease from a specified date;
- » A direction that CA or the relevant Member State or Territory cease to sanction events held by or under the auspices of that organisation;
- » A recommendation to CA or the relevant Member State or Territory that its membership of CA or the relevant Member State or Territory be suspended or terminated in accordance with the relevant constitution or rules; and/or



- » Any other form of discipline that the designated person or tribunal considers being reasonable and appropriate.

#### 9.4 Factors to consider

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

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

## 10. DICTIONARY

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

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

**Affiliated Club** is any club affiliated to a member state

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


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

- » Physical abuse by hurting a child or a child's development (e.g. hitting, shaking or other physical harm; giving a child alcohol or drugs; or training that exceeds the child's development or maturity).
- » Sexual abuse by adults or other children where a child is encouraged or forced to watch or engage in sexual activity or where a child is subject to any other inappropriate conduct of a sexual nature (e.g. sexual intercourse, masturbation, oral sex, pornography including child pornography or inappropriate touching or conversations).
- » Emotional abuse by ill-treating a child (e.g. humiliation, taunting, sarcasm, yelling, negative criticism, name calling, ignoring or placing unrealistic expectations on a child).
- » Neglect (e.g. failing to give food, water, shelter or clothing or to protect a child from danger or foreseeable risk of harm or injury).

**Complaint** means a complaint made under clause 7 of this policy.

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

**Complaints Officer** means person appointed by an organisation who is responsible for the administration of complaints and tribunals. This may be the CEO.



**Discrimination** means treating or proposing to treat someone less favourably than another person in the same or similar circumstances because of a particular characteristic (Direct Discrimination), or imposing or intending to impose an unreasonable requirement, condition or practice that is the same for everyone, but which has an unequal or disproportionate effect on individuals or groups with particular characteristics, even though it appears to treat all people the same (Indirect Discrimination). The characteristics covered by discrimination law across Australia include:

- » 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 age.
- » **Breastfeeding:** A member of the club who is breastfeeding a baby in the club rooms is asked to leave.
- » **Disability:** A player is overlooked for team selection because of 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 player is harassed when other players refuse to call her by her female name.
- » **Homosexuality:** An athlete is ostracised from her team after it becomes known 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 dropped from a squad when she becomes pregnant.
- » **Race:** An Italian referee is not permitted to referee games with a high proportion of Italian players on one team because of his race.
- » **Sex:** Specialist coaching is only offered to male players in a mixed team.

Further examples of discrimination are available on the Play by the Rules website:

[www.playbytherules.net.au/legal-stuff/discrimination](http://www.playbytherules.net.au/legal-stuff/discrimination)

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

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



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

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

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

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

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

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

**Member** means a member of CA, a Member State or Territory or an Affiliated Club.

**Member Protection Information Officer (MPIO)** means a person trained to be the first point of contact for a person reporting a complaint under, or a breach of, this Policy. The MPIO provides impartial and confidential support to the person making the complaint. References to the MPIO in this policy may include an appropriate person nominated by the MPIO to fulfil the same duties. If no MPIO has been appointed, the CEO or such other nominated senior manager shall fulfil the relevant duties.

**Procedural Fairness requires that:**


- » the respondent knows the full details of what is being said against them and they have the opportunity to be heard;
- » no person may judge their own case;
- » the decision maker/s must be unbiased, fair and just;

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

Policy, policy and this policy means this Member Protection Policy.

Respondent means the person who is being complained about.

Role-specific codes of conduct (or behaviour) means standards of conduct required of people holding certain roles in the organisation (e.g. coaches, officials, umpires).



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

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

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

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

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

**Sexual orientation:** The term 'sexual orientation' refers to a person's emotional or sexual attraction to another person, including, amongst others, the following identities: heterosexual, gay, lesbian, bisexual, pansexual, asexual or same-sex attracted.

**Gender identity:** The term 'gender identity' refers to a person's deeply held internal and individual sense of gender.

**Gender expression:** The term 'gender expression' refers to the way in which a person externally expresses their gender or how they are perceived by others.

**Intersex:** The term 'intersex' refers to people who have genetic, hormonal or physical characteristics that are not exclusively 'male' or 'female'. A person who is intersex may identify as male, female, intersex or as being of indeterminate sex.

**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 any complaint including a complaint under government legislation (e.g. anti-discrimination) or under this Policy, or for supporting such a person.

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

