

PREFACE

Sports Medicine Australia SA Branch (SMA-SA) is committed to the safety and wellbeing of all children and young people accessing our service. 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.

Every child has a right to be safe from harm at all times. SMA-SA is committed to providing an environment safe for children that is free from harassment and abuse for everyone, and promotes respectful and positive behaviour and values.

SMA-SA's commitment to protecting children is imbedded in our code of conduct and forms the basis of appropriate and ethical conduct which everyone must abide by.

SMA-SA Child Protection Policy is using a proactive approach by encouraging respectful and positive behaviour and values as a means of tackling inappropriate behaviour.

SMA-SA has a duty of care to children with whom our employees, agents, contractors and subcontractors come in contact with. SMA-SA's employees, agents, contractors and subcontractors have a responsibility to provide positive, safe environments for children, and young people to participate in sport and recreation.

*Sports Medicine Australia SA Branch
December 2009*

PART A Child Protection & Member Protection Policy

1. SMA-SA mission and values

Our Mission

“Sports Medicine Australia SA Branch is the peak Multi- disciplinary organisation of Sport Sciences and Sports Medicine Professionals in South Australia dedicated to enhancing the health and performance of the community through safe participation in sport and physical activity.”

Our Values

Sports Medicine Australia - SA Branch values:

1. the multi-disciplinary nature of its membership including the complementary range of expertise and professional qualities each member adds
2. the contribution, cooperation and collaboration of all members, volunteers, staff and stakeholder groups
3. the sharing, upgrading and broadening of members’ knowledge and skills
4. the ethical principles of Health Care Professionals and the maintenance of strong ethical practices in dealing with other organisations and the public
5. the application of science and research as these underpin and steer best practice in Sports Medicine and Health Education
6. collaborating with like organisations and agencies, to achieve common goals, for the benefit of the community.

2. Purpose of this policy

This Child Protection and Member Protection Policy aims to ensure our core values, good reputation and positive behaviours and attitudes are maintained. It assists us in ensuring that every person involved in our organisation is treated with respect and dignity, and is safe and protected from abuse. This policy also ensures that everyone involved in our organisation is aware of his or her legal and ethical rights and responsibilities.

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

The policy from December 2009 and will operate until replaced. This policy and/or its attachments may be amended from time to time. Copies of the policy and its attachments can be obtained from our website <http://www.smasa.asn.au> or from SMA-SA, PO Box 219, Brooklyn Park, SA 5032.

3. Who this policy applies to

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

- Individuals sitting on boards, committees and sub-committees
- Employees and volunteers
- Contractors and subcontractors
- Sport trainers
- Members, including life members
- Any other person or organisation that is a member of or affiliated with SMA-SA

This policy will continue to apply to a person even after they have stopped their association or employment with SMA-SA if disciplinary action, relating to an allegation of child abuse against that person, has commenced.

4. Code of conduct

SMA-SA requires every individual and organisation bound by this policy to:

- 4.1 Be ethical, fair and honest in all their dealings with other people and SMA-SA
- 4.2 Treat everyone with respect, honesty and courtesy (this includes staff, volunteers, students, children, young people and parents).
- 4.3 Always place the safety and welfare of children above other considerations
- 4.4 Remember to be a positive role model to children in all your conduct with them.
- 4.5 Set clear boundaries about appropriate behaviour between yourself and the children in your organisation – boundaries help everyone to carry out their roles well.
- 4.6 Follow organisational policy and guidelines for the safety of children as outlined in your Child Protection Policy.
- 4.7 Always have another adult present or in sight when conducting one-on-one activities etc.
- 4.8 Raise any concerns, problems or issues with management as soon as possible.
- 4.9 Record and act on serious complaints of abuse.
- 4.10 Comply with SMA-SA's constitution, rules and policies including this Member Protection Policy
- 4.11 Comply with all relevant Australian laws (Federal and State), particularly Anti-Discrimination and Child Protection laws
- 4.12 Be responsible and accountable for their conduct; and
- 4.13 Abide by the relevant Role-Specific Codes of Conduct.

5. Organisational responsibilities

Sports Medicine Australia SA Branch must:

- 5.1 Adopt, implement and comply with this policy
- 5.2 Publish, distribute and otherwise promote this policy and the consequences for breaching it
- 5.3 Promote appropriate standards of conduct at all times
- 5.4 Promptly deal with any breaches of or complaints made under this policy in an impartial, sensitive, fair, timely and confidential manner
- 5.5 Apply this policy consistently without fear or favour
- 5.6 Recognise and enforce any penalty imposed under this policy
- 5.7 Ensure that a copy of this policy is available or accessible to the persons to whom this policy applies
- 5.8 Appoint or have access to appropriately trained people to receive and handle complaints and allegations [e.g. Member Protection Information Officers (MPIOs) and/or Complaint Managers] and display the names and contact details in a way that is readily accessible; and
- 5.9 Monitor and review this policy at least annually.

6. Individual responsibilities

Individuals bound by this policy are responsible for:

- 6.1 Making themselves aware of the policy and complying with the standards of conduct outlined in this policy
- 6.2 Consenting to a National Police Check if the individual holds or applies for a role that involves working with people under the age of 18 years
- 6.3 Complying with all other requirements of this policy
- 6.4 Co-operating in providing a discrimination, child abuse and harassment free sporting environment
- 6.5 Understanding the possible consequences of breaching this policy.

7. Policy position statements

7.1 Child Protection Policy

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

SMA-SA acknowledges that our staff and volunteers provide a valuable contribution to the positive experiences of our juniors. SMA-SA aims to ensure this continues and to protect the safety and welfare of junior participants. Several measures will be used to achieve this such as:

- Prohibiting any form of abuse against children
- Providing opportunities for our juniors to contribute to and provide feedback on our program development
- Carefully selecting and screening people whose role requires them to work with people under the age of 18 years. (Screening procedures are outlined in Part B of this policy)
- Ensuring our codes of conduct, particularly for roles associated with juniors, are promoted, enforced and reviewed
- Providing procedures for raising concerns or complaints (our complaints procedure is outlined in Part C of this policy); and
- Providing education and/or information to those involved with sport on child abuse and child protection.

SMA-SA requires that any child who is abused or anyone who reasonably suspects that a child has been or is being abused by someone, to report it immediately to the police or Child Abuse Report Line on 131478 and /or Families SA and EO. Descriptions of the sorts of activity which may be abuse are in the Dictionary at clause 11.

All allegations of child abuse will be dealt with promptly, seriously, sensitively and confidentially. A person will not be victimised for reporting an allegation of child abuse and the privacy of all persons concerned will be respected. Our procedures for handling allegations of child abuse are outlined in Part C of this policy of this policy.

If anyone bound by this policy reasonably suspects that a child is being abused by his or her parent/s, they are advised to contact the Child Abuse Report Line on 131478 and /or Families SA.

7.2 Anti-Discrimination and Harassment Policy

SMA-SA aims to provide an environment where all those involved in its activities are treated with dignity and respect, and without harassment or discrimination.

SMA-SA recognises that all those involved in its activities cannot enjoy themselves, perform to their best, or be effective or fully productive if they are being treated unfairly, discriminated against or harassed because of their sex, marital status, pregnancy, parental status, race, age, disability, homosexuality, sexuality, transgender, religion, political belief and/or industrial activity.

SMA-SA prohibits all forms of harassment and discrimination not only because it is against the law, but because it is extremely distressing, offensive, humiliating and/or threatening and creates an uncomfortable and unpleasant environment.

Descriptions of some of the types of behaviour which could be regarded as harassment or discrimination are provided in the Dictionary at clause 11.

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

8. Complaints Procedures

8.1 Complaints

SMA-SA aims to provide an easy to use, confidential and trustworthy procedure for complaints based on the principles of natural justice. Any person may report a complaint (complainant) about a person/s or organisation bound by this policy if they reasonably believe that a person/s or an organisation has breached this policy. A complaint should be reported to the EO of the SMA-SA.

A complaint may be reported as an informal or formal complaint. The complainant decides whether the complaint will be dealt with informally or formally unless the EO of SMA-SA considers that the complaint falls outside the parameters of this policy and would be better dealt with another way.

All complaints will be dealt with promptly, seriously, sensitively and confidentially. Our complaint procedures are outlined in Part C of this policy.

8.2 Vexatious Complaints & Victimisation

SMA-SA aims to ensure our complaints procedure has integrity and is free of unfair repercussions or victimisation. If at any point in the complaint process the EO considers that a complainant has knowingly made an untrue complaint or the complaint is vexatious or malicious, the matter may be referred to the SMA-SA Branch Council for appropriate action which may include disciplinary action against the complainant.

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

8.3 Mediation

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

Mediation may occur either before or after an investigation of a complaint. If a complainant wishes to try and resolve the complaint with the assistance of a mediator, the EO will, in consultation with the complainant, arrange for a mediator to mediate the complaint. More information on the mediation process is outlined in Part C of this policy.

8.4 Tribunals

A hearing tribunal may be formed to hear a formal complaint that has been referred by the EO, or an alleged breach of the policy. Our tribunal hearings procedure is outlined in Part C of this policy.

A respondent may lodge one appeal only to the appeal tribunal in respect of a decision of a hearing tribunal. The decision of the appeal tribunal is final and binding on the people involved to the appeal. Our appeals process is outlined in Part C of this policy.

Every organisation bound by this policy will recognise and enforce any decision made, and form of discipline imposed, by an appeals tribunal under this policy.

Members of hearing and appeal tribunals will be indemnified by the organisation that appointed them against any claim for loss, compensation or damages, and for costs incurred defending a claim made against them, because of their function as a member of a hearing or appeals tribunal.

9. What is a Breach of this policy

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

- 9.1 Done anything contrary to this policy
- 9.2 Breached the Code of Conduct and Role-Specific Codes of Conduct
- 9.3 Brought SMA-SA into disrepute
- 9.4 Failed to follow SMA-SA policies and procedures for the protection, safety and welfare of children
- 9.5 Appointed or continued to appoint a person to a role that involves working with children and young people contrary to this policy
- 9.6 Discriminated against or harassed any person
- 9.7 Victimised another person for reporting a complaint
- 9.8 Disclosed to any unauthorised person or organisation any SMA-SA information that is of a private, confidential or privileged nature
- 9.9 Made a complaint they knew to be untrue, vexatious, malicious or improper
- 9.10 Failed to comply with a penalty imposed after a finding that the individual or organisation has breached this policy
- 9.11 Failed to comply with a direction given to the individual or organisation during the discipline process

10. Forms of Discipline

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

11. Dictionary

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

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

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

Child abuse relates to children at risk of harm (usually by adults, sometimes by other children) and often by those they know and trust. It can take many forms. Children may be harmed by both verbal and physical actions and by people failing to provide them with basic care. Child abuse may include:

- Physical abuse by hurting a child or a child's development (e.g. hitting, shaking or other physical harm; giving a child alcohol or drugs; giving bad nutritional advice; 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 Part C of this policy.

Complainant means the person making a complaint.

Discrimination means treating or proposing to treat a person less favourably than someone else in certain areas of public life on the basis of an attribute or personal characteristic they have. The relevant 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
- Trade union membership/activity
- Transgender orientation

Some States and Territories include additional characteristics.

Discrimination is not permitted in the areas of employment (including volunteer and unpaid employment); the provision of goods and services; 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; obtaining or retaining membership of an organisation (including the rights and privileges of membership).

Requesting, assisting, instructing, inducing or encouraging another person to engage in discrimination may also be discriminatory conduct.

Discrimination may be direct or indirect.

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

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

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

Unlawful harassment includes the above but is either sexual or targets a person because of their race, sex, pregnancy, marital status, sexuality or other characteristic (see characteristic list under discrimination).

Whether or not the behaviour is harassment is determined from the point of view of the person receiving the harassment. The basic rule is if someone else finds it harassing then it could be harassment. Harassment may be a single incident or repeated. It may be explicit or implicit, verbal or non-verbal.

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

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

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

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

Member Protection 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 confidential information and moral support to the person with the concern or who is alleging harassment or a breach of this policy. They help the complainant deal with any emotions they may have about what has happened and operate as a sounding board as the complainant decides what they want to do. The **(MPIO)** may accompany the complainant in anything they decide to do, if it feels appropriate and they are happy to do it.

Natural justice incorporates the following principles:

- a person who is the subject of a complaint must be fully informed of the allegations against them
- a person who is the subject of a complaint must be given full opportunity to respond to the allegations and raise any matters in their own defence
- all parties need to be heard and all relevant submissions considered
- irrelevant matters should not be taken into account
- no person may judge their own case
- the decision maker/s must be unbiased, fair and just
- the penalties imposed must not outweigh the 'crime'

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

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

Respondent means the person who is being complained about.

Role-specific codes of conduct means standards of conduct required of certain roles (e.g. sports trainers).

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

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

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

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

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

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

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



PART B South Australian Specific Requirements



Section 8A, Children's Protection Act 1993 (SA)

[Child-Safe Environments: Principles of Good Practice for Recreation & Sport](#)

PART C Grievance Procedures

To ensure consistency and that the principles of natural justice are followed in all aspects of handling or conducting complaints, allegations, investigations, tribunals and disciplinary measures, the SMA-SA will follow and implement the following procedures:

C1. Grievance Procedure

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

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

SMA ensure that complaints will be handled speedily, sensitively, impartially, confidentially and free of unfair repercussions or victimisation

If at any point in the complaint process SMA considers that a complainant has knowingly made an untrue complaint or the complaint is vexatious or malicious, the matter will be referred to the Ethics Committee for appropriate action. All complaints will be kept confidential and will not be disclosed to another person without the complainant's consent except if law requires disclosure or if disclosure is necessary to effectively deal with the complaint.

Step 1

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

Step 2

If:

- the first step is not possible/reasonable; or
- you are not sure how to handle the problem by yourself; or
- you just want to talk confidentially about the problem with someone and get some more information about what you can do; or
- the problem continues after you tried to approach the person or people involved; then
- talk with one of our Ethics Committee representatives.

The Ethics Committee representative will:

- take notes about your complaint (which will be kept in a secure and confidential place)
- try to sort out the facts of the problem
- ask what outcome/how you want the problem resolved and if you need support
- provide possible options for you to resolve the problem
- explain how our complaints procedure works
- act as a support person if you so wish
- refer you to an appropriate person to help you resolve the problem, if necessary
- inform the relevant government authorities and/or police if required by law to do so; and
- maintain strict confidentiality.

Step 3

After talking with the Ethics Committee representative, you may decide:

- there is no problem
- the problem is minor and you do not wish to take the matter forward
- to try and work out your own resolution (with or without a support person)
- to seek an informal mediated resolution with the help of a third person (such as a mediator or a manager).

If you wish to remain anonymous, SMA can't assist you to resolve your complaint. We have to follow the principles of natural justice and be fair to both sides. This means that SMA or you may be required to provide the person/people you have complained about with full details of the complaint so they have a fair chance to respond to all the allegations.

Step 4

If your complaint is not resolved to your satisfaction, you may:

- make a formal complaint in writing to the SMA Board
- approach a relevant external agency for advice.

Step 5

If you decide to make a formal complaint in writing under Step 4, the Board will, on receiving the formal complaint and based on the material you have provided, decide whether:

- the nature and seriousness of the complaint warrants a formal resolution procedure. Some complaints may be of a minor and/or purely personal nature with no connection to the activities of SMA. In these cases, the Board may determine that the complaint does not warrant a formal resolution procedure
- to refer the complaint to an informal or formal mediation session
- to refer the complaint to the Ethics Committee
- to refer the matter to the police or other appropriate authority; and/or
- to implement any interim administrative or other arrangements that will apply until the complaint process set out in these Procedures is completed.

Step 6

If:

- the complaint is referred to an informal or a formal mediation session under Step 5, the mediation session will be conducted as agreed by you and the respondent
- the complaint is referred to the Ethics Committee under Step 5, Regulation 6 applies
- the complaint is referred to the police or other appropriate authority under Step 5, SMA will use its best endeavours to provide all reasonable assistance lawfully required by the police or other appropriate authority; and
- interim administrative or other arrangements are implemented under Step 5, SMA will periodically review these arrangements to ensure that they are effective.

Step 7

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

C2. Mediation Procedure

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

This attachment outlines the general procedure of mediation that will be followed by SMA-SA.

1. The people involved in a formal complaint (complainant and respondent(s)) may work out their own resolution of the complaint or seek the assistance of a neutral third person or a mediator. Mediation may occur either before or after an investigation of the complaint.
2. Mediation (getting those involved to come to a joint agreement about how the complaint should be resolved) will only be recommended:
 - a. After the complainant and respondent have had their chance to tell their version of events to the EO on their own; *and*
 - b. The EO does not believe that any of the allegations warrant any form of disciplinary action - proven serious allegations will not be mediated, no matter what the complainant desires; and
 - c. Mediation looks like it will work (i.e. the versions given by the complainant and respondent tally or almost tally and/or at the very least, it looks as though it will be possible for each party to understand the other party's point of view).
3. Mediation will **not** be recommended if:
 - a. The respondent has a completely different version of the events and they won't deviate from these
 - b. The complainant or respondent are unwilling to attempt mediation; or
 - c. Due to the nature of the complaint, the relationship between you and the respondent(s) and any other relevant factors, the complaint is not suitable for mediation.
4. If mediation is chosen to try and resolve the complaint, the EO will, in consultation with the complainant and the respondent(s), arrange for a mediator to mediate the complaint.
5. The EO will notify the respondent(s) that a formal complaint has been made, provide them with details of the complaint and notify them SMA-SA has decided to refer the matter to mediation to resolve the complaint.
6. The mediator's role is to assist the complainant and respondent(s) reach an agreement on how to resolve the problem. The mediator, in consultation with the complainant and respondent(s), will choose the procedures to be followed during the mediation. At a minimum, an agenda of issues for discussion will be prepared by the mediator.
7. The mediation will be conducted confidentially and without prejudice to the rights of the complainant and the respondent(s) to pursue an alternative process if the complaint is not resolved.
8. At the end of a successful mediation the mediator will prepare a document that sets out the agreement reached between the complainant and respondent(s) and it will be signed by them as their agreement.
9. If the formal complaint is not resolved by mediation, the complainant may:
 - a. Write to the EO to request that the EO reconsider the complaint in accordance with Step 5; or
 - b. Approach an external agency such as an anti-discrimination commission.

C3. Investigation Procedure

If an investigation needs to be conducted the following steps are to be followed:

1. A written brief will be provided to the investigator to ensure the terms of engagement and scope of the investigator's role and responsibilities are clear.
2. The complainant will be interviewed and the complaint documented in writing.
3. The details of the complaint will be conveyed to the person/people complained about (respondent(s)) in full. The respondent(s) must be given sufficient information to enable them to properly respond to the complaint.
4. The respondent(s) will be interviewed and given the opportunity to respond. The respondent(s) response to the complaint will be documented in writing.
5. If there is a dispute over the facts, then statements from witnesses and other relevant evidence will be obtained to assist in a determination.
6. The investigator will make a finding as to whether the complaint is:
 - substantiated (there is sufficient evidence to support the complaint);
 - inconclusive (there is insufficient evidence either way);
 - unsubstantiated (there is sufficient evidence to show that the complaint is unfounded); and/or
 - mischievous, vexatious or knowingly untrue.
7. A report documenting the complaint, investigation process, evidence, finding and, if requested, recommendations, will be given to the EO
8. A report documenting the complaint and summarising the investigation process and key points that were found to be substantiated, inconclusive, unsubstantiated and/or mischievous will be provided to the complainant and the respondent(s).
9. Both the complainant and the respondent(s) are entitled to support throughout this process from their chosen support person/adviser (e.g. EO or other person).
10. The complainant and the respondent(s) may have the right to appeal against any decision based on the investigation. Information on our appeals process is in Attachment C5.

More detailed information on conducting internal investigations can be found at www.ausport.gov.au/ethics/policy.asp

C4. Procedure for allegations of child abuse

SMA-SA acknowledges Mandatory reporting is a requirement by law in SA, that a person must notify the Department for Families and Communities when it is suspected, on reasonable grounds that a child has been, or is being abused or neglected. It applies when that suspicion is formed during a persons work, regardless of whether it is paid or voluntary work, or in the carrying out of official duties.

SMA-SA acknowledges that those currently required to report include, teachers, medical practitioners, health professionals, child care workers, day care providers, social workers and workers, volunteers and managers within government departments or non-government agencies that provide services to children.

SMA-SA acknowledges that the Children's' Protection (Keeping Them Safe) Amendment Bill 2005 widens mandatory reporting to include

- A person employed by, or volunteering in, organisations that provide sporting or recreational services that provide services wholly or partly for children.

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

The following is a basic outline of the key processes to follow. More information can be obtained from SA Department for Families and Communities (Families SA) and the Child Abuse Report Line on 131478.

Step 1 Clarify basic details

Any complaints, concerns or allegations of child abuse should be made or referred to the Child Abuse Report Line on 131478 and /or Families SA

The initial response of the person that receives the complaint from the child (or person on behalf of the child) is crucial to the well-being of the child. It is important for the person receiving the information to:

- Listen to, be supportive and do not dispute what the child says
- Reassure the child that what has occurred is not the fault of the child
- Ensure the child is safe
- Be honest with the child and explain that other people may need to be told in order to stop what is happening; and
- Ensure that what the child says is quite clear but do not elicit detailed information about the abuse. You should avoid suggestive or leading questions.

The person receiving the complaint should obtain and clarify basic details (if possible) such as:

- Child's name, age and address
- Person's reason for suspecting abuse (observation, injury or other); and
- Names and contact details of all people involved, including witnesses.

Step 2 Report allegations of a serious or criminal nature

Any individual or organisation to which this policy applies, should immediately report any incident of a serious or a criminal nature to the police and Child Abuse Report Line on 131478 and /or Families SA.

If the allegation involves a child at risk of harm, the incident should immediately be reported to the police or other appropriate government agency. You may need to report to both the police and the relevant government agency.

The Child Abuse Report Line on 131478 and /or Families SA should be contacted for advice if there is **any** doubt about whether the complaint should be reported.

If the child's parent/s are suspected of committing the abuse, report the allegation to the Child Abuse Report Line on 131478 and /or Families SA

Step 3 – Protect the child

The EO should assess the risks and take interim action to ensure the child's/children's safety. Some options could include redeployment of the alleged offender to a non-child related position, supervision of the alleged offender or removal/suspension from their duties until the allegations are finally determined.

The EO should also address the support needs of the person against whom the complaint is made. Supervision of the person should ideally occur with the knowledge of the person. If stood down, it should be made clear to all parties that are aware of the incident that this does not mean the person is guilty and a proper investigation still needs to be undertaken.

Step 4 – Further clarify and investigate allegation

For allegations of a serious or criminal nature (eg, sexual abuse):

Seek advice from the police and relevant government agency as to whether SMA-SA should carry out its own internal investigation (in addition to any police or relevant government agency investigation).

If the police and/or relevant government agency advises that it is appropriate, then appoint an independent person (where possible) with appropriate expertise to conduct an investigation. The investigator should:

- Contact the parents/carers of the child at an appropriate time and as directed by the police or relevant government agency.
- If appropriate, meet with parents/carers and the child to clarify the incident and offer support on behalf of SMA-SA if required (example, professional counselling).
- Meet with the person against whom the allegation refers at an appropriate time and as directed by the relevant authority and give the person an opportunity to explain or respond to the allegation and identify any witnesses and supporting evidence. The person should have an opportunity to invite a support person/adviser to attend at a meeting and should be offered support (example, professional counselling) if necessary.
- Obtain a signed statement and record of interview from the person.
- Make contact with any witnesses and obtain written and signed statements outlining details of the allegation (what happened, when, how). This should only occur following advice from the relevant authority.
- Obtain other information that could assist in making a decision on the allegation.

The information collected during the investigation should be made available to the relevant authorities.

Strict confidentiality, impartiality, fairness and due process must be maintained at all times.

For allegations of a less serious nature (eg. verbal abuse):

Where possible, appoint an independent person with appropriate expertise to make contact and meet with each of the people involved to obtain details of the allegation.

The investigator should follow the procedure set out in Attachment C3.

Strict confidentiality, impartiality, fairness and due process must be maintained at all times.

Step 5 – Record and analyse all information

If an internal investigation was conducted under **Step 4**, the investigator will provide a report to the be Ethics Committee.

The decision-maker(s) will be Ethics Committee of SMA and will remain separate and at arm's length from the investigator.

The Ethics Committee will consider all the information and determine a finding. It will also recommend action and its rationale for the action.

Step 6 – Undertake disciplinary action

For incidents of a serious or criminal nature, consideration must be given to the findings of the police and/or the government agency before making a decision on disciplinary proceedings.

If disciplinary action is to be taken, follow the procedures outlined in Attachment C6 of the policy.

Implement any disciplinary decision recommended by the Ethics Committee. The action should be immediate.

Check with the Child Abuse Report Line on 131478 and /or Families SA to see if you need to forward a report.

Complete the report form in Part E of this policy. Retain the original in a secure place and forward a copy to the EO of the SMA.

C5. Hearings and Appeals Tribunal Procedure

The following Tribunal Hearing Procedure will be followed by hearings tribunals established by the SMA-SA.

Tribunal Formation and Notification

1. A Tribunal Panel will be convened as necessary as a subcommittee of SMA-SA Branch council, to hear a complaint that has been referred to it by the EO.
2. The SMA-SA Branch Council will organise for a Tribunal to be convened by notifying all Tribunal Panel members that they are required to hear a complaint. The Tribunal Panel members will be provided with a copy of all the relevant correspondence, reports or information received and sent by EO relating to the complaint/allegations.
3. The Tribunal Hearing will be scheduled as soon as practicable, but must allow adequate time for the person being complained about (respondent(s)) to prepare to respond to the complaint.
4. The number of Tribunal Panel members required to be present throughout the Tribunal Hearing Process will be established by the SMA-SA Branch Council.
 - 4.1 The Tribunal Panel will not include any person who has any actual or perceived conflict of interest, preconceived opinions, vested interests or personal involvement relating to the complaint.
 - 4.2 The Tribunal Panel will comprise at least one person who has knowledge, and preferably experience, of any relevant laws relating to the complaint (e.g. anti-harassment).
 - 4.3 If a member of the Tribunal Panel cannot continue once the Tribunal Hearing has commenced, and the minimum number required for the Tribunal Hearing is still maintained, the discontinuing member will not be replaced.
 - 4.4 If the specific or minimum number is not maintained, the discontinuing member may be replaced if it is considered appropriate by the Tribunal Chairperson. Factors to consider should include the circumstances of the complaint and the ability of the new Tribunal Panel member to be reasonably and impartially informed of the hearing evidence up until the time of their appointment. If the Tribunal Chairperson believes it is not appropriate for a new Tribunal Panel member to be appointed then the Tribunal will be rescheduled to a later date. The Tribunal Chairperson will inform the EO of the need to reschedule, and the EO will organise for the Tribunal Hearing, with a new Tribunal Panel to be reconvened.
5. The EO will inform the respondent(s) by written notification that a tribunal hearing will take place. The written notification will outline:
 - That the person has a right to appear at the tribunal hearing to defend the complaint/allegation;
 - Details of the complaint, including any relevant rules or regulations they are accused of breaching (if there is more than one complaint these should be set out separately);
 - The date, time and venue of the tribunal hearing;
 - That they can make either verbal or written submissions to the Tribunal;
 - That they may arrange for witnesses to attend the Tribunal in support of their position;
 - An outline of any possible penalties that may be imposed if the complaint is found to be true; and
 - That legal representation will not be allowed. If the respondent is considered a minor, they should have a parent or guardian present.

A copy of any information / documents that have been given to the Tribunal (eg investigation report findings) will also be provided to the respondent. The respondent(s) will be allowed to participate in all SMA-SA activities and events, pending the decision of the Tribunal, including any available appeal process, unless the EO] believes it is warranted to exclude the respondent(s) from all or some SMA-SA activities and events, after considering the nature of the complaint.

6. The EO will inform the person making the complaint (complainant) by written notification that a tribunal hearing will take place. The written notification will outline:

- That the person has a right to appear at the tribunal hearing to support their complaint;
- Details of the complaint, including any relevant rules or regulations they are accused of breaching (if there is more than one complaint these should be set out separately);
- The date, time and venue of the tribunal hearing;
- That they can make either verbal or written submissions to the Tribunal;
- That they may arrange for witnesses to attend the Tribunal in support of their position; and
- That legal representation will not be allowed. If complainant is considered a minor, they should have a parent or guardian present.

A copy of any information / documents that have been given to the Tribunal (eg investigation report findings) will also be provided to the complainant.

7. If the complainant believes the details of the complaint are incorrect or insufficient they should inform the EO as soon as possible so that the respondent and the Tribunal Panel members can be properly informed of the complaint.

Tribunal Hearing Procedure

8. The following people will be allowed to attend the Tribunal Hearing:

- The Tribunal Panel members;
- The respondent(s);
- The complainant;
- Any witnesses called by the respondent;
- Any witnesses called by the complainant;
- Any parent / guardian or support person required to support the respondent or the complainant.

9. The Tribunal Chairperson will call the hearing to order at the designated time and determine if the respondent(s) is present.

10. If the respondent(s) is not present and the Tribunal Chairperson considers that no valid reason has been presented for their absence, the Tribunal Hearing will continue subject to the Tribunal Chairperson being satisfied that all Tribunal notification requirements have been carried out correctly.

11. If the Tribunal Chairperson considers that a valid reason for the non-attendance of the respondent(s) is presented, or the Tribunal Chairperson does not believe the Tribunal notification requirements have been carried out correctly, then the Tribunal Hearing will be rescheduled to a later date.
12. The Tribunal Chairperson will inform the EO of the need to reschedule, and the EO will organise for the Tribunal Hearing to be reconvened.
13. The Tribunal Chairperson will read out the complaint that is to be judged, ask the respondent(s) if they understand the complaint being made against them, and if they agree or disagree with the complaint.
14. If the person agrees with the complaint, they will be asked to provide any evidence or witnesses that should be considered by the Tribunal Panel when determining any disciplinary measures.
15. If the person disagrees with the complaint, the complainant will be asked to describe the circumstances that lead to the complaint being made.
 - Brief notes may be referred to.
 - The complainant will be allowed to call witnesses.
 - The respondent(s) may be allowed to question the complainant and their witnesses.
16. The respondent(s) will then be asked to respond to the complaint.
 - Brief notes may be referred to.
 - The respondent will be allowed to call witnesses.
 - The complainant may be allowed to ask questions of the respondent and their witnesses.
17. Both the complainant and respondent will be allowed to be present when evidence is presented to the Tribunal. Witnesses may be asked to wait outside the Tribunal Hearing until required.
18. The Tribunal will be allowed to:
 - consider any evidence, and in any form, that it deems relevant.
 - question any person giving evidence.
 - limit the number of witnesses presented if it is agreed by all parties that they will support the person who requested them, but will not provide any new evidence.
19. Video evidence, if available, may be presented. The arrangements must be made entirely by the person/s wishing to offer this type of evidence.
20. If the Tribunal considers that at any time during the Tribunal Hearing that there is any unreasonable or intimidatory behaviour from anyone allowed to be present, the Tribunal Chairperson shall have the power to stop any further involvement of the person in the Tribunal Hearing.
21. After all of the evidence has been presented the Tribunal Panel will make its decision in private. If the Tribunal believes the complaint has been substantiated on the balance of probabilities (i.e. more probable than not), the respondent will then be given an opportunity to address the Tribunal Panel and make a submission on any disciplinary measures that may be imposed. Any disciplinary measure imposed must be reasonable in the circumstances.
22. All decisions made by the Tribunal will be based on a majority vote.

23. The Tribunal Chairperson will announce the decision in the presence of all those involved in the hearing and will declare the hearing closed.
24. Within 48 hours, the Tribunal Chairperson will:
- 24.1 Forward to the EO a copy of the tribunal decision including any disciplinary measures imposed.
 - 24.2 Forward a letter to the respondent(s) reconfirming the Tribunal's decision and any disciplinary measures imposed. The letter should also outline, if allowed, the process and grounds for an appeal to be made.

Appeals Procedure

It is considered good and fair practice to provide a process to appeal against decisions or disciplinary actions imposed. The reasons allowable for an appeal need to be determined e.g. limited to such aspects as a denial of natural justice or an unfair / unreasonable penalty.

25. A complainant or a respondent(s) who is not satisfied with a decision described in **Step 7** of the Complaints Procedures can lodge one appeal to SMA-SA on one or more of the following bases:
- 25.1 That a denial of natural justice has occurred; or
 - 25.2 That the disciplinary measure(s) imposed is unjust and/or unreasonable.
26. A person wanting to appeal in accordance with paragraph 25 must lodge a letter stating their intention and the basis for their appeal with the EO within 3 days of the relevant decision.
27. If the letter of appeal is not received by the EO within the relevant time period the right of appeal will lapse. If the letter of appeal is received but the appeal fee is not received by the relevant time, the appeal shall be deemed to be withdrawn.
28. Upon receipt of the letter of appeal, the EO must convene a special meeting of the appeals committee to review the letter of appeal and decide whether there are sufficient grounds for the appeal to proceed. The appeals committee will be able to invite any witnesses to the meeting it believes are required to make an informed decision.
29. If it is considered that the letter of appeal has not shown sufficient grounds for appeal in accordance with paragraph 25, then the appeal will not proceed and the person will be notified of this decision and the reasons for this decision.
30. If the appeal is considered to have sufficient grounds to proceed then a Tribunal with a new panel will be convened to rehear the complaint. The appeals committee shall follow the Tribunal Formation and Notification procedures outlined above.
31. The Tribunal Hearing Procedure shall be followed for the appeal.
32. The decision of the appeal Tribunal will be final.

C6. Disciplinary Measures

Any disciplinary measure imposed under this policy must:

- Observe any contractual and employment rules and requirements
- Conform to the principles of natural justice
- Be fair and reasonable
- Be based on the evidence and information presented
- Be within the powers of the EO to impose the disciplinary measure.

Subject to contractual and employment requirements, if a finding is made that an individual has breached SMA-SA's Member Protection Policy (including the Codes of Conduct), one or more of the following forms of discipline may be imposed by:

1. A direction that the individual make a verbal and/or written apology
2. A written warning
3. A direction that the individual attend counselling to address their behaviour
4. A withdrawal of any records, achievements bestowed or sanctioned by SMA-SA
5. A demotion or transfer of the individual to another location, role or activity
6. A suspension of the individual's membership or participation or engagement in a role or activity
7. Termination of the individual's membership, appointment or engagement
8. Recommend that SMA-SA terminate the individual's membership, appointment or engagement
9. In the case of a Sports Trainer a direction to de-register the accreditation for a period of time or permanently
10. Any other form of discipline that SMA-SA Branch Council considers appropriate.

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

Factors to consider when imposing discipline

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

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

PART D Role Specific Codes of Conduct

Under development

PART E Reporting Documents

Under development

