



**MEMBER PROTECTION POLICY
BY-LAWS and REGULATIONS**

Board Endorsed and Effective from 1 June 2007

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PREFACE

Transplant Australia Ltd is committed to values that it espouses. Being an organisation that is dedicated to the preservation of and giving our community another chance at life when their own organs have failed them, being mindful that this opportunity has arisen through the generous donation of others, it is integral of our nature to:

- Ensure that every member be able to continue their new life experience in an environment free of any form of harassment as covered in the definitions of this Policy. Further any other forms of unethical and inappropriate behaviours will not be tolerated.
- To create a personally safe environment where freedom of expression is encouraged without fear or favour and all positive behaviour expressions are rewarded by physical and emotional growth.
- That transplant recipients, dialysis patients, living donors and donor families are able to develop to their fullest potential in their chosen sport in which personal respect will be freely given and received by all.
- Life long learning is a value of Transplant Australia Ltd members and this policy is integral to that learning process. Hence each State Branch will provide the appropriate training to its members to ensure that not only is there a working understanding of the Policies and Procedures of our Member Protection Policy but all will be able to remind each other of its importance on a day to day basis

The Board encourages all members to take a proactive approach to these policies, being careful enough to ensure nobody in Transplant Australia Ltd feels the stresses created by non-compliance.

On behalf of the Directors and Members

Bernard L Morellini
Chairman
Transplant Australia Ltd

1 June 2007

PART A – Member Protection Policy

1. Mission, Vision and Core Value

Mission

Transplant Australia Ltd is the national controlling body representing transplant recipients, dialysis patients, those awaiting transplants, living donors and donor families to foster longevity of donated life giving organs and support the physical and emotional health of all recipients and donors.

Long Term Goals

- To continually excel as a dominant nation in World Transplant Sports
- To raise awareness of the need for organ and tissue donation in Australia
- To encourage transplant recipients and those awaiting transplantation to participate actively in sport and recreational activities.
- To show gratitude to the families of organ and tissue donors
- To demonstrate to the public the quality of life and sporting prowess recipients enjoy following a transplant.
- To provide a support and advisory service (e.g. medical, financial and counselling) to members.
- To create an Australian way of life that organ donation and transplantation are national cultural values.
- To reinforce the view that transplantation was the greatest medical breakthrough of the 20th century.

Our Values

- To value life – both that given by donors and that received by recipients
- To view supportive feedback as essential to create future growth
- Value the well-being and diversity of all our members
- To foster team-ship and mutual understanding
- To be open and transparent in all our dealings

2. Purpose of this policy

This 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 activities. As part of this commitment, Transplant Australia Ltd will take disciplinary action against any person or organisation bound by this policy if they breach it.

This policy has been endorsed by the Board of Transplant Australia Ltd. The policy starts on 29th May 2006 and will operate until replaced. This policy and/or its attachments was amended on 1 June 2007 by resolution of the Board. Copies of the policy and its attachments can be obtained from our website www.transplant.org.au or from the CEO of Transplant Australia Ltd.

3. Who this Policy Applies To

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

- Individuals sitting on boards, committees and sub-committees;
- Employees and volunteers;
- Support personnel (e.g. managers, physiotherapists, psychologists, masseurs, sport trainers);
- Coaches and assistant coaches;
- Athletes and players;
- Referees, umpires and other officials;
- Members, including life members;
- Affiliated clubs and associated organisations;
- Peak associations and the national body;
- Any other person or organisation that is a member of or affiliated to Transplant Australia Ltd
- 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 Transplant Australia Ltd if disciplinary action, relating to an allegation of child abuse against that person, has commenced.

4. Standards Of Conduct

Transplant Australia Ltd 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 Transplant Australia Ltd;
- 4.2 Treat all persons with respect and courtesy and have proper regard for their dignity, rights and obligations;
- 4.3 Always place the safety and welfare of children above other considerations;
- 4.4 Comply with Transplant Australia Ltd's constitution, rules and policies including this Member Protection Policy;
- 4.5 Operate within the rules and spirit of the organisation;
- 4.6 Comply with all relevant Australian laws (Federal and State), particularly anti-discrimination and child protection laws;
- 4.7 Be responsible and accountable for their conduct; and
- 4.8 Abide by the relevant Role-Specific Standards of Conduct outlined in Part D of this policy.

5. Organisational Responsibilities

Transplant Australia Ltd, which incorporates Branches in all the Australian States and Territories, 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 i.e. a Member Protection Information Officer 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 direct and unsupervised contact with people under the age of 18 years
 - Involves working with people under the age of 18 years
 - Involves regular contact with people under the age of 18 years
- 6.3 Complying with all other requirements of this policy;
- 6.4 Co-operating in providing a 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.

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

- Prohibiting any form of abuse against children;
- 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/have regular contact with/direct and unsupervised contact with children. (Screening procedures are outlined in Part B of this policy);
- Ensuring our standards of conduct, particularly for roles associated with junior sport, 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 in our organisation on child abuse and child protection.

Transplant Australia Ltd requires that any child who is abused or anyone who reasonably suspects that a child has been or is being abused by someone within our organisation, to report it immediately to the police or relevant government agency and relevant designated person/s e.g. MPIO, CEO. 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 attachment C of this policy.

If anyone bound by this policy reasonably suspects that a child is being abused by his or her parent/s, they are advised to contact the relevant government department for youth, family and community services in their state/territory.

7.2 **Anti-Discrimination and Harassment Policy**

Transplant Australia Ltd aims to provide a sport environment where all those involved in its activities are treated with dignity and respect, and without harassment or discrimination.

Transplant Australia Ltd 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.

Transplant Australia Ltd 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 that 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 attachment C of this policy. This will explain what to do about the behaviour and how the Transplant Australia Ltd will deal with the problem.

8. **Complaints Procedures**

8.1 **Complaints**

Transplant Australia Ltd 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 MPIO, State Branch President or CEO.

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 MPIO, State Branch President or CEO 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 attachment C of this policy.

8.2 **Vexatious Complaints & Victimisation**

Transplant Australia Ltd 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 Transplant Australia Ltd MPIO, State Branch President or CEO considers that a complainant has **knowingly** made an untrue complaint or the complaint is vexatious or malicious, the matter may be referred to the Transplant Australia Ltd CEO for appropriate action that may include disciplinary action against the complainant.

Transplant Australia Ltd 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**

Transplant Australia Ltd 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 Transplant Australia Ltd State Branch President will, in consultation with the complainant, arrange for a mediator to mediate the complaint. More information on the mediation process is outlined in attachment C of this policy.

8.4 **Tribunals**

A hearings tribunal may be formed to hear a formal complaint that has been referred by the Transplant Australia Ltd CEO for an alleged breach of the policy. Our tribunal hearings procedure is outlined in attachment 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 attachment 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.

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 Standards of Conduct;
- 9.3 Brought the sport and/or Transplant Australia Ltd into disrepute;
- 9.4 Failed to follow Transplant Australia Ltd's 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 Engaged in a sexually inappropriate relationship with a person that the person supervises, or has influence, authority or power over;
- 9.9 Disclosed to any unauthorised person or organisation any Transplant Australia Ltd's information that is of a private, confidential or privileged nature;
- 9.10 Made a complaint they **knew** to be untrue, vexatious, malicious or improper;
- 9.11 Failed to comply with a penalty imposed after a finding that the individual or organisation has breached this policy;
- 9.12 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 attachment 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 Attachment D in the Standards of Conduct 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 of Transplant Australia Ltd

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

Member means transplant recipients, dialysis patients, families of deceased donors, living donor their family and those who are nominated supporters of Transplant Australia as stated in the organisations database.

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

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

Member Protection Information Officer (MPIO) means a person within Transplant Australia Ltd trained to be the first point of contact for a person reporting a complaint under, or a breach of, this policy. The Transplant Australia Ltd 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 Transplant Australia Ltd 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.

Sexual harassment means unwanted, unwelcome or uninvited behaviour of a sexual nature that 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: TRANSPLANT AUSTRALIA'S CHILD PROTECTION REQUIREMENTS

Background

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

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

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

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

As part of Transplant Australia's commitment to protecting the safety and welfare of children and young people involved in Transplant Australia's activities, Transplant Australia requires the following measures to be met.

- Provide opportunities for juniors to contribute to and provide feedback on program development;
- Provide education and/or information on child abuse and child protection to those involved in our sport such as coaches, juniors, parents and officials; and
- Where applicable meet the requirements outlined in B1-B7.

Attachment B1: CHILD PROTECTION REQUIREMENTS

This attachment sets out the screening process for people who currently occupy or who apply for any work (paid or voluntary) in our association that involves direct and unsupervised contact with people under the age of 18 years.

Screening under this policy is not a replacement for any other procedure required by law. If State or Territory legislation sets an equivalent or higher standard of screening, the requirement to screen people under the process outlined below need not be followed.

Association/club requirements

Under Transplant Australia's Member Protection Policy, our association is required to:

1. Identify positions (paid and voluntary) that involve working with people under the age of 18 years.
2. Obtain a completed Member Protection Declaration (MPD) (Attachment B2) from all people who are bound by this policy if they occupy or apply for a position that involves working with people under the age of 18 years. The MPD will be kept in a secure place.

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

- provide an opportunity for the person to respond/provide an explanation, and
- make an assessment as to whether the person may pose a risk to or be unsuitable to work with people under the age of 18 years.

If unsatisfied, then the Transplant Australia will:

- in the case of an existing employee/volunteer, transfer the person to another role which does not require them to work [directly and unsupervised] with people under the age of 18 years. If this is not possible, then end the appointment. **Note: legal advice should be obtained before the termination process begins.**
 - in the case of someone applying for the position/role, not appoint them.
3. Check a person's referees (verbal or written) and interview a person about his/her suitability for the role and his/her suitability for working with children for both paid and voluntary positions.
 4. Ask people applying for [and people who currently occupy] a position that involves regular contact with people under the age of 18 years to **sign a consent form** for a national police check. (Information on police checks and forms can be found at www.ausport.gov.au/ethics/policechecks.asp).
 5. Request a national police check from our relevant police jurisdiction for people applying for and people who currently occupy paid positions that involves direct and unsupervised contact with people under the age of 18 years.
 6. In most police jurisdictions a 'Part Exclusion' check for people working with children can be requested. This check excludes irrelevant records.

If the police check indicates a relevant offence, the Transplant Australia will:

- provide an opportunity for the person to respond/provide an explanation, and
- make an assessment as to whether the person may pose a risk to or be unsuitable to work with people under the age of 18 years.

If unsatisfied, then the Transplant Australia will:

- in the case of an existing employee/volunteer, transfer the person to another role which does not require them to work [directly and unsupervised] with people under the age of 18 years. If this is not possible, then end the appointment. **Note: legal advice should be obtained before the termination process begins.**
- in the case of someone applying for the position/role, not appoint them.

If the person does not agree to a national police check after explaining why it is a requirement, the Transplant Australia shall make an assessment as to whether the person may pose a risk to or be unsuitable to work with people under the age of 18 years. If unsatisfied, the Transplant Australia will:

- In the case of an existing employee/volunteer, transfer the person to another role which does not require them to work [directly and unsupervised] with people under the age of 18 years. If this is not possible, then end the appointment. **Note: legal advice should be obtained before the termination process begins.**
- In the case of someone applying for the position/role, not appoint them.

7. Decide whether to offer the person the position or retain the person in the position, taking into account the result of the police check and any other information Transplant Australia has available. Where it is not practical to complete the police check prior to employment commencing, Transplant Australia must still complete the check as soon as possible. Transplant Australia will advise the person that their ongoing employment is conditional upon the satisfactory outcome of the check.
8. Where a national police check is obtained under this member protection policy, another organisation which is also required to screen may obtain a copy of the national police check provided that the consent of the relevant person is obtained and the national police check was performed in the immediately preceding two years.
9. Protect the privacy of any person who is checked and the confidentiality of any information obtained through the checking process. Information collected during screening (such as a completed MPD form, police records and referee reports) will be returned to the relevant person if that person is not appointed to/will not remain in the position, or otherwise be destroyed with the consent of the person concerned.

Attachment B2: MEMBER PROTECTION DECLARATION

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

I (name) of
.....

.....(address) born
...../...../.....

sincerely declare:

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

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

on/...../.....(date) Signature
.....

Parent/Guardian Consent (in respect of person under the age of 18 years)

I have read and understood the declaration provided by my child. I confirm and warrant that the contents of the declaration provided by my child are true and correct in every particular.

Name:.....

Signature:.....

Date:

ATTACHMENT B3: QUEENSLAND BLUE CARD REQUIREMENTS

This information is subject to change at any time. Refer to the Queensland Commission for Children and Young People and Child Guardian's (Commission) website: www.bluecard.qld.gov.au or contact 1800 113611 if you have any queries about your obligations under their legislation. This information was updated on 1 April 2006 and is provided as a guide only.

In Queensland the Commission for Children and Young People and Child Guardian Act 2000 requires people who work with children under 18 years of age in certain categories of employment regulated by the Act, and people carrying on certain categories of business regulated by the Act to hold a blue card, unless specifically exempt.

When a person applies for a blue card the Commission conducts a Working with Children Check which is an assessment of a person's eligibility to work with children based on their criminal history, certain disciplinary information (if any) and investigative information (if any) held by the police commissioner. If a person is eligible for a blue card, the Commission issues a positive notice letter and a blue card which remains current for a period of 2 years.

Queensland State Branch of Transplant Australia is responsible for applying for a blue card on behalf of their paid employees and volunteers where the nature of their work falls under one of the categories regulated by the Act.

Interstate sporting organisations, associations and clubs visiting Queensland for sporting training camps, competition or other activities taking place in Queensland may also need to apply for a blue card if the nature of their activities falls under one of the categories in the Act.

People carrying on a regulated business are responsible for applying for a blue card if the activities of the business are regulated under one of the categories in the Act.

Relevant categories of employment regulated by the Act

Note: Only those categories of employment relevant to the sport and recreation industry have been listed below.

Paid employees who commenced work in one of the following categories of employment after 1 May 2001 will need to apply for a blue card unless exempt under the relevant category:

- Private teaching, coaching or tutoring
- Sport and active recreation
- clubs and associations involving children
- child accommodation services (which incorporates billets).

Paid employees commencing employment in the following category need a blue card irrespective of when they commenced their employment – i.e. before or after 1 May 2001:

- schools – employees other than teachers and parents

Paid employees

Paid employees falling under one of the above listed categories of employment regulated by the Act need a blue card, unless exempt, if they work or are likely to work over a period of 12 months for at least:

- eight consecutive days, or
- once a week, each week, over four weeks, or
- once a fortnight, each fortnight, over eight weeks, or
- once a month, each month over six months.

Once a blue card application has been lodged, a paid employee can commence or continue to work in regulated employment while waiting for the outcome of their blue card application.

Volunteers

Volunteers working with children who fall under one of the above listed categories of employment regulated by the Act need a blue card, unless exempt, **before** they can commence the child related activity, regardless of how often they come into contact with children and young people.

Exemptions

The following people are exempt from the Working with Children Check and do not need a blue card:

- children under 18 who are volunteers (except trainee students required to work in regulated employment as part of their studies with an education provider such as a registered training organisation, or university);
- a volunteer guest of a school or a registered charity, corporation or incorporated association:
 - for the purpose of observing, supplying information or entertainment to 10 or more people, and
 - the activity is for 10 days or less on no more than two occasions per year, and
 - the person is unlikely to be physically present with a child without another adult being present, or
- an event volunteer performing the function of employment at a national or state event organised by a school or a registered charity, corporation or incorporated association (operating at a state or national level) for:
 - a sporting, cultural or skill based activity, and
 - the event is attended by more than 100 people, and
 - the work is for 10 days or less on no more than two occasions per year; and
 - the person is unlikely to be physically present with a child without another adult being present.

In addition, the following specific exemptions apply under each category regulated by the Act. It is critical to note that the exemptions below apply to the specific categories of regulated employment and business as stated, and therefore are not transferable. For example, a 'registered teacher' is only exempt in the first two categories of regulated employment mentioned below, as that specific exemption does not apply to the remaining three identified categories of employment.

1. Schools - employees other than teachers and parents

- a ‘registered teacher’; and
- a volunteer parent of a child attending the school.

2. Private teaching, coaching or tutoring

- a ‘registered teacher’; or
- a person carrying out work in their capacity as an employee of an ‘education provider’ .

3. Sport and active recreation

- the employment takes place at an ‘amusement park’; or
- the person provides the service or conducts the activity in their capacity as an employee of a ‘government entity’; or
- a volunteer parent of a child to whom the services are provided; or
- a volunteer parent of a child in relation to whom the activities are conducted
- the services are provided, or the activities are conducted by or within a club or association or similar entity and are regulated under that category (See Item 4: Clubs and associations involving children)).

4. Clubs and associations involving children

- the person carries out the work in their capacity as an employee of a ‘government entity’; or
- a volunteer parent of a child who receives the same or similar services to which the employment relates; or
- a volunteer parent of a child who participates in the same or similar activities to which the employment.

5. Child accommodation services (including billets)

- the ‘child accommodation service’ is being provided to a relative of the home stay provider;
- the work is carried out for a ‘government service provider’ that carries on a business which includes arranging a ‘child accommodation service’; or
- the employment is organised by a school or a registered charity, corporation or incorporated association and is for 10 days or less and provided on no more than two occasions per year.

Relevant categories of business regulated by the Act

Note: Only those categories of business relevant to sport and recreation industry have been listed below.

A person or a corporation carrying on the following regulated businesses in Queensland must also apply for a blue card:

- private teaching, coaching or tutoring
- child accommodation services including homestays (including billets)
- Sport and active recreation (which may include recreational activities such as sporting camps and programs (excluding amusement parks)

Exemptions

1. Private teaching, coaching or tutoring

- If the business is conducted by an education provider

2. Child accommodation services including homestays (including billets)

- If the business is conducted at a:
 - boarding facility; or
 - residential facility funded by the Commonwealth government, or the Department of Child Safety, Disabilities Services Queensland, Department of Communities, Qld Health; or licensed by the Child Protection Act; or
 - or another place mainly providing accommodation for children which is funded by the Commonwealth government or Education Queensland.

3. Sport and active recreation

- If the business takes place at an amusement park; or
- The activities are conducted by or within a club, association or similar entity and are regulated under that category (See Item 4).

Where the business is a corporation, **each person** whose principal place of residence is in Australia, who takes part in the management of the corporation needs a blue card.

A person carrying on a regulated business must hold a blue card **before** they commence the regulated activity regardless of how often they come into contact with children and young people.

Application forms

Blue card application forms for a paid employee, volunteer, or person carrying on a regulated business can be downloaded from www.ccypcg.qld.gov.au. Volunteer applications are processed free of charge; there is a \$40 processing fee for paid employees and business applications. [This fee is to be paid by the State Branch].

Change in criminal history

If Transplant Australia knows or reasonably suspects that an employee who commenced employment prior to 1 May 2001 and therefore does not require a blue card, has a criminal history relevant to their work with children or young people, the Transplant Australia can apply for a blue card for that person. In such a case, the relevant application form to submit is a 'current employee blue card application form'.

This requirement also applies to interstate Transplant Australia that visit Queensland and apply to the Commission for a Working with Children Check.

Risk management

Amendments to the Act, effective January 2005, require organisations engaging paid employees or volunteers that need a blue card, and persons or organisations carrying on a business for which a blue card is required to develop and implement annually, a risk management strategy to promote the well-being of children in their care and protect them from harm.

The key elements an organisation needs to consider in creating a risk management strategy includes:

- a child protection policy, which outlines:
 - a Code of Conduct
 - recruitment, training and management procedures for staff
 - reporting guidelines and directions for handling disclosures or suspicions of harm, and
 - consequences to staff for non-compliance with the policy
- communication and support strategies, such as:
 - information sheets for staff, volunteers and parents about policies, procedures and Codes of Conduct, and
 - training materials and communication strategies which help staff, volunteers and parents identify risks of harm
- documentation of risk management processes including:
 - registers of staff
 - strategies and plans for high-risk and special events
 - complaints registers, and
 - forms to ensure consistent handling of incidents, disclosures of harm, permissions and approvals for related activities.

Attachment B4: NEW SOUTH WALES REQUIREMENTS TO CHECK PEOPLE WORKING WITH CHILDREN

This information will change during 2006 once the Commission for Children and Young People Amendment Act 2005 is proclaimed. Refer to the NSW Commission for Children and Young People website: www.kids.nsw.gov.au or contact 02 9286 7219 to ensure you have to date information. This information was updated 27 April 2006. The Working with Children Check was updated on January 2, 2007 and member residents of NSW should regularly check www.kids.nsw.gov.au/check/resources.html for further updates.

All NSW clubs and associations who engage/employ people in child-related activities (in a paid or voluntary capacity) must meet the requirements of the Working With Children Check. This is a legal requirement. Interstate clubs and organisations that visit NSW and engage/employ people in child-related activities (in a paid or voluntary capacity) may also be required to complete a Working with Children Check with the NSW Commission for Children and Young People. We are required to:

1. Register with the NSW Department of Sport and Recreation Employment Screening Unit;
2. Identify positions (paid and voluntary) which are **child-related positions**;
3. Obtain a Prohibited Employment Declaration (PED) from all existing employees in child-related positions. PED forms can be downloaded from www.kids.nsw.gov.au/check/resources.html. If the person is a **prohibited person** we must remove him/her from the child-related employment;
4. Keep the PED in a secure place for as long as the person is employed;
5. Ask preferred applicants for paid child-related positions to sign a Consent Form for a background check;
6. Include advice about the Working With Children Check in information being provided about child-related positions (e.g. coach of junior team);
7. Request a background check for preferred applicants for paid child-related employment before they start work;
8. Decide whether to offer the applicant the position, taking into account the result of the Working With Children Check and any other information we have available;
9. Where it is not practical to complete the background check prior to employment commencing, we must still complete the check as soon as possible. We must advise employees that their ongoing employment is conditional upon the satisfactory outcome of the check;
10. Notify the NSW Commission for Children and Young People of any person whose application for child-related employment has been rejected primarily because of a risk assessment in the Working With Children Check. We must do this even if we offer the person an alternative position;
11. Advise the person if their application was rejected primarily because of an adverse risk assessment in the Working With Children Check;
12. Notify the NSW Commission for Children and Young People of any person against whom **relevant employment proceedings** have been completed; and

13. Protect the privacy of any person who is checked and the confidentiality of any information obtained through the checking process.

Child-related employment is any work (paid or unpaid) that involves direct and unsupervised contact with children in several types of areas such as sporting and recreation clubs and associations that have a significant child membership or involvement.

Employment includes work done:

- under a contract of employment;
- as a sub-contractor;
- as a volunteer for an organisation;
- as a minister of religion (whether or not ordained); and
- undertaking practical training as part of an educational or vocational course

Prohibited person is a person convicted of committing a serious sex offence or is a registrable person.

Registrable person is someone who has been found guilty of the following offences against children:

- murder
- sexual offences
- indecency offences
- kidnapping
- child prostitution
- child pornography

Relevant employment proceedings are disciplinary proceedings completed in NSW, or elsewhere, where an employer or professional body that supervises the conduct of the employee has found that ‘**reportable conduct**’ or an act of violence occurred, or there is some evidence that it occurred. An act of violence will be relevant only if it was committed by an employee in the course of employment and in the presence of a child.

Reportable conduct is:

- any sexual offence, or sexual misconduct, committed against, with or in the presence of a child (including a child pornography offence);
- any assault, ill treatment or neglect of a child; or
- any behavior that causes psychological harm to a child.

Attachment B5: WESTERN AUSTRALIA CHILD PROTECTION REQUIREMENTS

This information is subject to change at any time. Refer to the Department of Community Development [Working with Children Screening Unit website](#) www.checkwwc.wa.gov.au or contact 1800 883 979. This information was updated on 1 April 2006.

From 1 January 2006, certain people working with children in Western Australia will be required to have a Working with Children Check (Check) – a national criminal history check and assessment of any record that appears as part of this check. The Check is compulsory under the Working With Children (Criminal Record Checking) Act 2004, and will be introduced progressively to different sectors over the next 5 years.

The Check will take into account convictions for any offence and charges for serious sexual and violent offences and will cost \$10.00 for volunteers and unpaid workers and \$50.00 for paid workers and self-employed people. [These fees will be paid by the State Branch].

Applicants whose check is “successful” will be issued with either an ‘assessment notice’ in the form of an ID card which allows that person to work or volunteer with children across different types of ‘child-related work’. Applicants whose Check is “unsuccessful” will be issued with a ‘negative notice’, which prohibits any child-related work. In some cases an Interim Negative Notice may be issued while the screening process is completed. This means that you must not start or continue that person in ‘child-related work’ while the notice is current, and you can only start or continue that person in child-related work if they are later issued an Assessment Notice.

The Screening Unit must notify the employer, where known, of the outcome of applications for a Check.

Assessment notices will be valid for three years, unless the person has a “relevant change” in criminal record. If this occurs, the person is required to report this to their employer, who must then inform the Screening Unit, and a reassessment of the record takes place. The Police may also inform the Screening Unit where a person in child-related work has had a relevant change in criminal record.

Who needs to apply for a Check

People doing **child-related work** must have a Check by the date required under the [phasing-in arrangements](#). The definition of **child-related work**, under Section 6 of the Working with Children (Criminal Record Checking) Act 2004 includes:

“Work” is **child-related work** if the **usual duties** of the work involve, or are likely to involve, contact with a child in connection with:

- an educational institution for children;
- a coaching or private tuition service of any kind, but not including an informal arrangement entered into for private or domestic purposes;
- a club, association or movement (including of a cultural, recreational or sporting nature and whether incorporated or not) with a significant membership or involvement of children, but not including an informal arrangement entered into for private or domestic purposes;

- an overnight camp.

Note that categories of work not relevant to the activities of our sport have not been listed above. A full list of the categories of child-related work is available on the Working with Children website (www.checkwwc.wa.gov.au) or by calling the Screening Unit on (08) 6217 8100.

General exemptions

The following people are exempt from the legislation and will not need to have a Check:

- volunteers under 18 years;
- employers of and fellow employees working with young people, so long as they are not otherwise in child-related work;
- parents volunteering where their child is also involved (This exemption does not apply to parents volunteering in connection with overnight camps);
- Short-term visitors to WA, for 2 weeks after their arrival, and for no more than 2 weeks in a 12 month period;
- People who carry out child-related work on no more than 5 days in a calendar year (except those working in child care services).

Specific exemptions from certain categories of child-related work

Category	Parent Exemption	Other exemptions
Educational institution for children	Work carried out on a voluntary basis by a parent of a child who is enrolled at the educational institution	WA College of Teaching members (for 2006 only)
Coaching or private tuition service of any kind	Work carried out on a voluntary basis by a parent of a child to whom the service is being provided in connection with an activity in which the child is participating or ordinarily participates	<ul style="list-style-type: none"> • An informal arrangement entered into for private or domestic purposes • Coaching or private tuition provided to a class of 2 or more students that is not provided primarily for children
Club, association or movement (including of a cultural, recreational or sporting nature and whether incorporated or not) with a significant membership or involvement of children	Work carried out on a voluntary basis by a parent of a child who is involved or is ordinarily involved in some or all of the activities of the club, association or movement	An informal arrangement entered into for private or domestic purposes
an overnight camp, regardless of the type of accommodation or how many children are involved	No parent exemption.	WA College of Teaching members, where overnight camp is in connection with: <ul style="list-style-type: none"> • Community kindergarten; • Educational institution for children; or • Coaching or private tuition service

Obligations of employers, including organisations using volunteers include:

- You must not employ a person in child-related employment on more than five days in a calendar year unless he or she:
 - has applied for a Check, or
 - already holds a current Assessment Notice by the date they are required to under the phasing-in arrangements.
- You must not employ someone in child-related employment if you are aware that he or she holds a Negative Notice or Interim Negative Notice.
- You must not employ a person in child-related employment if you are aware that the person has withdrawn his or her Check application.
- You must not employ a person in child-related employment if you are aware that he or she:
 - has a conviction or pending charge for a [Class 1 or Class 2 offence](#), and
 - does not have a current Assessment Notice or an application for one that is still being considered.
- If an employee or volunteer reports a relevant change in criminal record to you, you must report this (in writing) to the Working with Children Screening Unit, as soon as practicable.
- If you receive a written request from the Working with Children Screening Unit, you must provide information or documents to show your compliance with your obligations as an employer.

It is okay for employers to start someone in child-related work once they have applied for a Check in line with the phasing-in arrangements (outlined below) and while the Check is being processed. The employer does not have to wait until the card is issued. Safeguards are in place to ensure that the Screening Unit notifies the employer if, in the mean time, a Negative Notice or Interim Negative Notice is issued, or if the person subsequently withdraws their application.

Phasing-in Arrangements

Checks are being phased-in over 5 years. If a person is carrying out child-related work and needs to apply for a Check, they must apply by the date required under the phasing-in arrangements. The information provided below about phasing-in arrangements is general information only. Only those categories of child-related work relevant to our sport are listed. For full details of the phasing-in arrangements for Checks please see Factsheet 2 “When to apply for a Working with Children Check”, available at www.checkwwc.wa.gov.au, or by calling (08) 6217 8100.

Commencing in 2006

- Volunteers working with children aged 0 – 7 years in any category of child-related work.
- Self-employed people working with children in connection with **any category** of child-related work, **EXCEPT**
 - child care licensees and “managerial officers”
 - registered teachers working in educational settings
 - persons with an F or T drivers licence endorsement who carry out a transport service specifically for children

- people providing coaching or private tuition services for a TAFE or a Registered Training Organisation.
- “New” paid employees (who are not [public sector employees](#)) who commence child-related work after 1 January 2006 in the following categories of child-related work:
 - coaching or private tuition services
 - clubs, associations or movements with a significant membership or involvement of children
 - overnight camps
 - children’s entertainment or party services

Commencing in 2007

- Volunteers working with children aged 8 – 12 years in any category of child-related work.
- "New" public sector employees who commenced child-related work after 1 January 2006.
- “New” paid employees who commenced work after 1 January 2006 in the following categories of child-related work:
 - Educational institutions for children
 - People providing coaching and private tuition services for a TAFE, Registered Training Organisation or education service provider registered under the Education Service Providers (Full Fee Overseas Students) Registration Act 1991.

Commencing in 2008

- Volunteers Working with Children aged 13 – 17 years in any category of child-related work.

Commencing in 2009-2010

- “Continuing” paid employees (including public sector employees) who have remained in the same child-related work they were in before 1 January 2006, and are still in that position.

Attachment B6: VICTORIA CHILD PROTECTION REQUIREMENTS

This information is subject to change at any time. Refer to the Department of Justice website: <http://www.justice.vic.gov.au> and follow the Working with Children Check link under Business Units or contact 1300 652 879. This information was updated 1 April 2006.

Under the [Working with Children Bill](#) (2005) the Victorian Working with Children Check (Check) will require individuals who work or volunteer with children in certain capacities in identified occupations and activities to undergo screening for criminal offences.

A person who has no relevant criminal or professional disciplinary history will be granted an assessment notice. That notice will entitle the person to undertake child-related work. A person deemed unsuitable to work or volunteer with children will be given a negative notice and cannot work in [child-related work](#). A negative notice can be appealed to Victorian Civil and Administrative Tribunal (VCAT) provided the individual is not listed on the Sex Offenders Register or subject to an extended supervision order.

Who needs to apply for a Check

Any person who works in, or in connection with, in a paid or voluntary capacity, any of the 20 child-related occupational fields listed in the Act. This work must also usually involve (or be likely to involve) regular, direct contact with a child where that contact is not directly supervised. The following child-related categories are relevant to our sport.

- educational institutions for children (such as schools and some TAFE programs);
- clubs, associations or movements that provide services or conduct activities for or directed at children or whose membership is mainly comprised of children;
- coaching or private tuition services of any kind for children; and
- direct commercial provision (and not incidental or in support of other business activities) of gym or play facilities specifically for children.

Exemptions

The following people will not need to have a Check:

- individuals aged under 18
- volunteers involved in an activity in which their child ordinarily participates
- individuals working only with children who are close family relations
- secondary school students aged under 20 performing volunteer work arranged through the school where they are studying
- sworn members of Victoria Police
- teachers registered with the Victorian Institute of Teaching
- a visiting worker who does not ordinarily reside and perform child-related work in Victoria.

Phasing-in Arrangements

Checks are being phased in over the next five years, commencing in April 2006. The type of child-related work determines when people need to apply for a check. **At this stage it is**

anticipated that the sport sector will be phased in 2008/09. More information on the phasing-in of Checks is available from www.justice.vic.gov.au.

Employer requirements

As an employer or volunteer organisation you must:

- ensure all employees or volunteers who are required to get a Check do so at the correct time, which is indicated in the phasing plan.
- where your employees or volunteers are not required to get a Check because their contact with children is directly supervised, ensure the supervisor has a Check unless an exemption applies. For example, the supervisor may be a registered teacher with the Victorian Institute of Teaching, making them exempt
- ensure that employees or volunteers issued with a Negative Notice do not undertake child-related work as defined by the Working With Children Act 2005.

As an employer or volunteer organisation you should:

- record your employee's and volunteer's unique Application Receipt Number received when they submit their application. The Act enables a person to continue or commence work while their application is pending
- confirm that your employees and volunteers have been issued with an Assessment Notice after Check applications have been assessed by the Department of Justice
- sight your employee's or volunteer's Working with Children Check Card and confirm the status of their Card Number to verify that they have passed the Check. You can do this online from 1 July 2006, or by calling 1300 652 872
- record your employee's or volunteer's Card Number, which is different from their Application Receipt Number
- develop internal processes in the event of an existing employee or volunteer being issued with an Interim Negative Notice or Negative Notice.

Attachment B7: SOUTH AUSTRALIAN CHILD PROTECTION REQUIREMENTS

This information is subject to change at any time. Refer to the Department of Families and Communities website www.familiesandcommunities.sa.gov.au or the South Australian Office for Recreation and Sport's website www.resport.sa.gov.au or contactif you have any queries about your obligations under the legislation. This information was updated on 1 May 2006.

Recent amendments to the Children's Protection Act 1993, in South Australia as per the Children's Protection (Miscellaneous) Amendment Act 2005, promote a whole of community responsibility to the care and protection of children and young people. Whilst yet to be proclaimed, new provisions relating to the establishment of child safe environments, facilitating effective criminal history checks and the extension of mandated notifiers, will all have an impact upon sporting and recreational organisations.

The new provisions will require government, non-government and volunteer organisations that are entrusted with the care of children or regularly come into contact with children to have strategies in place to prevent and minimise opportunities for abuse and to appropriately respond when abuse occurs or is suspected. Organisations will also be required to implement guidelines and processes that clearly outline effective and timely responses to child protection issues and steps of action.

Standards will be developed to assist organisations move towards creating safer environments for children. Requirements under the standards are likely to include:

- Codes of conduct and principles of good practice for working with children;
- Guidance on standards of conduct for adults in dealing with children;
- Advice on how to deal with cases of bullying or harassment of a child;
- Guidance on informing on cases of child abuse and neglect, or suspected abuse or neglect;
- Advice on the recruitment and supervision of staff of Government and non-government organisations;
- Guidance on how to handle procedures for complaints, and making the complaints process easier for children;
- Monitoring progress of child safe environments in Government and non-government sectors and periodic reporting; and
- Developing and issuing standards in dealing with information about the criminal history of employees and volunteers.

The amendments to the Children's Protection Act 1993 **may** also require sport and recreation organisations to develop or comply with new criminal history check provisions. This **may** mean undertaking a criminal history check for any person in a prescribed position (including employees, volunteers, agents, subcontractors and contractors) who has:

- Regular contact/close proximity to children; or
- Supervision of such a person; or
- Access to children's records;
- Or else as prescribed by regulation.

Mandatory reporting is currently a requirement by law in South Australia. Mandatory reporting means that those people covered by the law must report reasonable suspicions of

child abuse or neglect. Those currently mandated under the law 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. **Under the new legislation a person employed by, or volunteering in, organisations that provide sporting or recreational services for children will also be mandated.**

Throughout the year, further information and advice relating to proclamation and implementation of these provisions will be provided by the Office for Recreation and Sport in South Australia. Once proclaimed, penalties of up to \$10,000 will apply for non-compliance with the requirements under the legislation. **Until this time recreation and sport organisations should continue to follow the generic child protection requirements and the risk management process set out in ‘Child Protection in Sport - National Overview’ document provided by the Australian Sports Commission.**

PART C: PROCEDURES

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

- C1 Complaints Procedure
- C2 Mediation Procedure
- C3 Investigation Procedure
- C4 Investigation Procedure for allegations of child abuse
- C5 Hearings and Appeals Tribunal Procedure
- C6 Disciplinary Measures

Attachment C1: COMPLAINTS PROCEDURE

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

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

If at any point in the complaint process Transplant Australia CEO, Branch State President or MPIO considers that a complainant has **knowingly** made an untrue complaint or the complaint is vexatious or malicious, the matter will be referred to the Board of Transplant Australia 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 your Transplant Australia State President or the MPIO. A list of persons you may contact is found on the Transplant Australia Ltd website

<http://www.transplant.org.au>

The Transplant Australia Ltd State Branch President or the MPIO 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 Transplant Australia Ltd State Branch President or the MPIO, 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 such as a MPIO); or
- 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, Transplant Australia 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 the [SO] 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 CEO of Transplant Australia
- approach a relevant external agency such as an equal opportunity commission, for advice.

Step 5

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

- they are the most appropriate person to receive and handle the complaint;
- 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 the Transplant Australia. In these cases, the CEO of Transplant Australia may determine that the complaint does not warrant a formal resolution procedure;
- to appoint a person to investigate the complaint;
- to refer the complaint to an informal or formal mediation session;
- to refer the complaint to a hearings tribunal;
- 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.

In making the decision(s) outlined above, the CEO of Transplant Australia will take into account:

- whether they have had any personal involvement in the circumstances giving rise to the complaint and, if so, whether their ability to impartially manage the complaint is compromised or may appear to be compromised;

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

If CEO of Transplant Australia is the appropriate person to handle the complaint they will, to the extent that these steps are necessary:

- get full information from you (the complainant) about your complaint and how you want it resolved (if this information has not already been obtained through earlier steps);
- put the information they've received from you to the person/people you're complaining about and ask them to provide their side of the story;
- decide whether they have enough information to determine whether the matter alleged in your complaint did or didn't happen; and/or
- determine what, if any, further action to take. This action may include disciplinary action in accordance with Attachment C6, appointing a person to investigate the complaint, referring the complaint to an informal or a formal mediation session or a hearings tribunal and/or referring the complaint to the police or other appropriate authority.

Step 6

If:

- a person is appointed to investigate the complaint under **Step 5**, the investigator will conduct the investigation and provide a written report to The Board who will determine what, if any, further action to take. This action may include a direction to the investigator to make further enquiries and obtain additional information, disciplinary action in accordance with Attachment C6, and referring the complaint to an informal or a formal mediation session, a hearings tribunal and/or the police or other appropriate authority;
- the complaint is referred to an informal or a formal mediation session under **Step 5**, the mediation session will be conducted in accordance with Attachment C2 or as otherwise agreed by you and the respondent;

- the complaint is referred to a hearings tribunal under **Step 5**, the hearing will be conducted in accordance with Attachment C5;
- the complaint is referred to the police or other appropriate authority under **Step 5**, the Transplant Australia 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**, the [SO] will periodically review these arrangements to ensure that they are effective.

Step 7

If, under **Step 6**, an informal or formal mediation session is conducted, and you and the respondent(s) can not reach a mutually acceptable mediated solution to the complaint, you may request that CEO of Transplant Australia reconsider the complaint in accordance with **Step 5**.

You or the respondent(s) may be entitled to appeal where:

- under **Step 5**, a decision was made by CEO of Transplant Australia
 - not to take any action; or
 - to take disciplinary action; or
- under **Step 6**, a decision was made by the Board or a hearings tribunal:
 - not to take any action; or
 - to take disciplinary action.

The grounds for appeal and the process for appeals under this Policy are set out in Attachment C5

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

Step 8

The CEO will document the complaint, the process followed and the outcome. This document will be stored in a confidential and secure place. If the complaint was dealt with at a state/district level, the information will be stored in the state association office. If the matter is of a serious nature, or if the matter was escalated to and/or dealt with at the national level, the original document will be stored at the national office with a copy stored at the state office.

External procedure

There may be a range of external options available to you depending on the nature of your complaint. If you feel that you have been harassed or discriminated against, you can seek

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

Once a complaint is received by an anti-discrimination commission, an investigation will be conducted. If it appears that unlawful harassment or discrimination has occurred, there will usually be an attempt to conciliate the complaint confidentially first. If this fails, or is inappropriate, the complaint may go to a formal hearing where a finding will be made as to whether unlawful harassment or discrimination occurred. The tribunal will decide upon what action, if any, will be taken. This could include financial compensation for such things as distress, lost earnings or medical and counselling expenses incurred.

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

If you do lodge a complaint under anti-discrimination law, you may use an appropriate person (e.g. an MPIO) as a support person throughout the process. It is also common to have a legal representative, particularly at the hearing stage of a complaint.

Attachment C2: MEDIATION

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 Transplant Australia

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 CEO, MPIO, or State Branch President of Transplant Australia on their own; and
 - b. If the CEO, MPIO, or State Branch President of Transplant Australia 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 CEO, MPIO, or State Branch President of Transplant Australia will, under the direction of Transplant Australia and in consultation with the complainant and the respondent(s), arrange for a mediator to mediate the complaint.
5. The CEO, MPIO, or State Branch President of Transplant Australia will notify the respondent(s) that a formal complaint has been made, provide them with details of the complaint and notify them the Transplant Australia 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 CEO or a designated person of Transplant Australia to request that they reconsider the complaint in accordance with **Step 5**; or
 - b. Approach an external agency such as an anti-discrimination commission.

Attachment C3: INVESTIGATION PROCESS

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 CEO of Transplant Australia.
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. Transplant Australia MPIO 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

Attachment C4: INVESTIGATION PROCEDURE - CHILD ABUSE

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

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

Step 1 - Clarify basic details of the allegation

- Any complaints, concerns or allegations of child abuse should be made or referred to State Branch President, MPIO or CEO of Transplant Australia.
- 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 other appropriate authority.**
- If the allegation involves a child at risk of harm, the incident should immediately be reported to the police or other appropriate government agency. You may need to report to both the police and the relevant government agency.
- The relevant State or Territory authority should be contacted for advice if there is **any** doubt about whether the complaint should be reported.
- If the child's parent/s are suspected of committing the abuse, report the allegation to the relevant government agency.

Step 3 – Protect the child

- The State Branch President, MPIO or CEO of Transplant Australia should assess the risks and take interim action to ensure the child's/children's safety. Some options that the [SO] could implement include redeployment of the alleged offender to a non-child

related position, supervision of the alleged offender or removal/suspension from their duties until the allegations are finally determined.

- The State Branch President, MPIO or CEO of Transplant Australia 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

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

Step 5 – Record and analyse all information

- If an internal investigation was conducted under **Step 4**, the investigator will provide a report to Board of Transplant Australia
- The decision-maker will be the CEO of Transplant Australia and will remain separate and at arm's length from the investigator.
- The CEO of Transplant Australia 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 Board of Transplant Australia. The action should be immediate.
- Check with the relevant state government authority to see if you need to forward a report (e.g. the NSW Commission for Children and Young People requires notification of relevant employment proceedings).
- Complete the report form in Part E of this policy. Retain the original in a secure place and forward a copy to the CEO of Transplant Australia.

Attachment C5: HEARINGS & APPEALS TRIBUNAL PROCEDURE

- The following Tribunal Hearing Procedure will be followed by hearings tribunals established by Transplant Australia.

Tribunal Formation and Notification

1. A Tribunal Panel will be constituted following the rules outlined in Transplant Australia's Constitution, to hear a complaint that has been referred to it by CEO of Transplant Australia.
2. The CEO of Transplant Australia will organise for a Tribunal to be convened by notifying 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 CEO of Transplant Australia 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 two.
 - 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 CEO of Transplant Australia of the need to reschedule, and the CEO of Transplant Australia will organise for the Tribunal Hearing, with a new Tribunal Panel to be reconvened.
5. The CEO of Transplant Australia 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 Transplant Australia activities and events, pending the decision of the Tribunal, including any available appeal process, unless the CEO of Transplant Australia believes it is warranted to exclude the respondent(s) from all or some Transplant Australia activities and events, after considering the nature of the complaint.

6. The CEO of Transplant Australia 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 CEO of Transplant Australia 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 CEO of Transplant Australia of the need to reschedule, and the CEO of Transplant Australia 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. Only those disciplinary measures outlined in the Transplant Australia's Member Protection Policy will be considered. 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 CEO of Transplant Australia 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

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 the Transplant Australia 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 CEO of Transplant Australia within 21 days of the relevant decision.
27. If the letter of appeal is not received by the CEO of Transplant Australia 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 CEO of Transplant Australia must convene a special meeting of the Board to review the letter of appeal and decide whether there are sufficient grounds for the appeal to proceed. The Board 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 Board 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.

Attachment C6: DISCIPLINARY MEASURES

Any disciplinary measure imposed by the Board 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 Board to impose the disciplinary measure.**

Individual

Subject to contractual and employment requirements, if a finding is made that an individual has breached Transplant Australia's Member Protection Policy including the Codes of Conduct, one or more of the following forms of discipline may be imposed the Board.

1. A direction that the individual make a verbal and/or written apology;
2. A written warning;
3. A direction that the individual attend counselling to address their behaviour;
4. A withdrawal of any awards, placings, records, achievements bestowed in any tournaments, activities or events held;
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 termination of the individual's membership, appointment or engagement;
9. In the case of a coach or official, a direction that the relevant organisation de-register the accreditation of the coach or official for a period of time or permanently;
10. Any other form of discipline that Board considers appropriate.

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

Organisations

If a finding is made that Transplant Australia member or affiliated organisation] has breached the Transplant Australia's Member Protection Policy (including the Codes of Conduct), one or more of the following forms of discipline may be imposed by the Board]:

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

6. a recommendation to the national body that its membership of the national body be suspended or terminated in accordance with the relevant constitution or rules; and/or
7. any other form of discipline that the national body or peak organisation considers to be appropriate.

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

Factors to consider when imposing discipline

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

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



STANDARDS OF CONDUCT

These Standards of Conduct apply to all participants in TRANSPLANT AUSTRALIA LTD authorised events, including State Events, National Events, International Events and Tours.

PRINCIPLES

Safety

Encouraging healthy and safe procedures, preventing and reporting dangerous behaviour, while demonstrating concern for others.

Responsibility

Taking responsibility for one's actions and being a positive role model at all times.

Respect

Recognising the contribution which people make to sport, treating them with dignity and consideration, as well as caring for the property and equipment they use.

Fairness

Operating within the spirit of the rules, never taking an unfair advantage and making informed and honourable decisions at all times.



STANDARDS OF CONDUCT

PARTICIPANTS SHALL

- Promote the good name and best interests of Transplant Australia Ltd;
- Abide by all reasonable requirements of Transplant Australia Ltd officials concerning the obtaining of recognised medical approval and (personal and public) insurance coverage for the purpose of attending and competing in any and each of the activities;
- Abide by the rules governing each sport, club, and venue;
- Respect an official's decision;
- Control your temper. Verbal abuse, sledging, deliberately distracting or provoking an opponent are not acceptable or permitted behaviours;
- Be a good sport. Be willing to applaud all good plays by your team and the opposition;
- Accept the result with dignity;
- Cooperate with your team manager, team captain, team-mates and opponents;
- Participate for your own enjoyment and benefit, not just to please others;
- Always wear the correct uniform and specified clothing at all official functions, sporting events and as otherwise reasonably directed by Transplant Australia officials;
- Respect all host venues, hotel, city or state rules or policies;
- Maintain a quiet demeanour at accommodation venues at all times during an event;
- Show appreciation for volunteers, officials and administrators;
- Respect the rights, dignity and worth of all participants regardless of their race, gender, ability, cultural background or religion;
- While overseas at all times respect and abide the law and customs of the country you are in;
- While overseas, at all times behave in a manner that upholds the good name and reputation of Australia in general and Transplant Australia Ltd in particular.

PARTICIPANTS SHALL NOT:

- Act in a manner unbecoming or contrary to the interests of Transplant Australia Ltd;
- Act in any manner or engage in any activity (whether on or off the sporting arena or venue) that would impair public confidence in the integrity and good character of other participants and Transplant Australia Ltd;
- Argue with an official. If you disagree, have the captain or manager approach the official during a break or after the competition;
- Use drugs, except for medical purposes, while travelling, competing and/or socialising;
- Use or encourage the use of banned substances;
- Consume excessive alcohol while travelling, competing, spectating or socialising;
- Disrupt another individual's preparation for or participation in an event through disorderly or un-sportsman like conduct;
- Discourage or disparage any competitor;
- Deliberately foul or provoke an opponent;
- Publicly criticise or ridicule any competitor, team-mate or official;
- Bully, harass or take unfair advantage of another competitor, team-mate or official;
- Threaten or intimidate another competitor, team-mate, official or spectator;
- Strike or attempt to strike another competitor, team-mate, official or spectator;
- Physically or verbally abuse an official, opposing player, team-mate or spectator;
- Physically or verbally vilify or discriminate against any person on a sexual, racial or religious basis;
- Abuse or destroy equipment;
- Misuse provided funds or misuse property belonging to another party;
- Intentionally engage or incite participants and/or spectators to engage in abusive or violent actions;
- Use obscene gestures, profanity or disrespectful language;

- Use offensive language;
- Engage in any other offensive behaviour;

Supporters - additional

- Remember that people participate in sport for their enjoyment, not yours.
- Encourage (but do not force) participation.
- Focus on the efforts and performance rather than winning or losing.
- Encourage participants to play by the rules and to settle disagreements without resorting to hostility or violence.
- Never ridicule or yell at someone for making a mistake or losing a competition.
- Support all efforts to remove verbal and physical abuse from activities.

Disciplinary Measures: are outlined in attachment C6 of the Transplant Australia Ltd Member Protection Policy

SPECIFICALLY PROHIBITED OR RESTRICTED

The following types of conduct are specifically prohibited:

- 1 Aggressive Behaviour:** The definition of aggressive behaviour lies with the event organisers. You shall not promote or engage in physical abuse, verbal abuse, threats, intimidation, harassment, coercion and/or other conduct, which threatens or endangers the health or safety of any person. You shall not use “fighting words” to harass any person in connection with authorised functions.
- 2 Control:** Team managers and event organisers are responsible for managing and maintaining the safety of our members and the facilities being used. You agree to comply with the directions of these people who are acting in the performance of their duties.
- 3 Disorderly Conduct:** You may not engage in disorderly or lewd conduct including disorder associated with alcohol or controlled substances.
- 4 Photography and Video Taping:** You are not allowed to photograph or videotape individuals in change rooms facilities or where the person being recorded or their parent/guardian has indicated that they are unwilling to have their images recorded at that time.
- 5 Unauthorized Commercial Activity:** You are not allowed to post, advertise, instruct in private lessons, or solicit individuals in the facilities for personal services, businesses, or agencies without the prior approval of the event organisers.

(The following actions are considered Criminal Activity and will result in immediate police action. The police will be contacted and assistance will be requested. Additional sanctions will apply.)

- 6 Vandalism:** Damage to or destruction of any property of the host venue or property of others during a Transplant Australia Ltd authorised event.
- 7 Assault:** Rape, sexual assault, or sexual harassment, physical and serious verbal abuse.
- 8 Theft:** Removal of or conversion of the property of others without appropriate prior authorisation during an authorised event.

Transplant Australia Ltd, PO Box 592, North Sydney, NSW, 2059, Ph (02) 9922-5400 Fax (02) 9954-6412
www.transplant.org.au contactus@transplant.org.au



**TRANSPLANT AUSTRALIA LTD
STANDARDS OF CONDUCT**

SIGNATURES

I have read and agree to abide by the Standards of Conduct in all Transplant Australia Ltd authorised events. I understand that failure to agree with these Standards of Conduct will result in non-acceptance of my application of membership and ineligibility to participate in Transplant Australia Ltd sponsored or endorsed activities.

NB: All participants in Transplant Australia Games events must be financial members.

In the case of a junior participant (child under the age of 18 years), it is necessary for both the child and parent to read this document and if necessary the parent is to discuss the Standards of Conduct with the child. Both parties are required to sign the declaration.

Please print clearly.

Member Name:

Address:

City:State:.....

Country.....Postcode:.....

Phone: (h)(w)

(mob).....Email:.....

Signed:Date:

(Adult/parent/guardian)

Signed: Date:

(Child - under the age of 18 years)

Witness: Name: Signature:.....

Phone: (h) (w).....

Please return to:

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www.transplant.org.au contactus@transplant.org.au

PART E: REPORTING DOCUMENTS/FORMS

To assist in consistency and accuracy in following procedure and reporting on the issues covered by Transplant Australia Ltd Member Protection Policy, the following documents are to be used:

E1 Confidential Record of Informal Complaint – to be used by all or others who receive a complaint or allegation

E2 Confidential Record of Formal Complaint – to be used when a formal complaint is received by Transplant Australia Ltd

E3 Confidential Record of Child Abuse Allegation – the nominated person within Transplant Australia Ltd to receive complaints and/or allegations of child abuse

E4 Record of Mediation – to be used by those who conduct a mediation

E5 Record of Tribunal Decision – to be completed by the nominated person within Transplant Australia Ltd.

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

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

Attachment E1: CONFIDENTIAL RECORD OF INFORMAL COMPLAINT

Complainant's name	<p>_____</p> <input type="checkbox"/> Over 18 <input type="checkbox"/> Under 18	Date: ____/____/____
Role/status in TA	<input type="checkbox"/> Administrator (volunteer) <input type="checkbox"/> Parent <input type="checkbox"/> Athlete/player <input type="checkbox"/> Spectator <input type="checkbox"/> Coach/Assistant Coach <input type="checkbox"/> Support Personnel <input type="checkbox"/> Employee (paid) <input type="checkbox"/> Other (please state) <input type="checkbox"/> Official	
Location/event of alleged issue		
Facts as stated by complainant		
Nature of complaint (category/basis/grounds) More than one box can be ticked.	<input type="checkbox"/> Harassment or <input type="checkbox"/> Discrimination <input type="checkbox"/> Sexual/sexist <input type="checkbox"/> Selection dispute <input type="checkbox"/> Sexuality <input type="checkbox"/> Personality clash <input type="checkbox"/> Race <input type="checkbox"/> Bullying <input type="checkbox"/> Religion <input type="checkbox"/> Verbal abuse <input type="checkbox"/> Pregnancy <input type="checkbox"/> Physical abuse <input type="checkbox"/> Disability <input type="checkbox"/> Victimisation <input type="checkbox"/> Child Abuse <input type="checkbox"/> Other	

<p>Feelings expressed by complainant. (completing this may help to separate emotional content from facts)</p>	
<p>What the complainant wants to happen to fix the issue.</p>	
<p>Information that the complainant provided</p>	
<p>What the complainant is going to do now</p>	

This record and any notes must be kept in a confidential place – do not enter it on a computer system. If the issue becomes a formal complaint, this record is to be sent to the CEO of Transplant Australia Ltd.

<p>Methods (if any) of attempted informal resolution</p>	
<p>Support person (if any)</p>	<p>Name: _____ Relationship/ Organisation: _____</p>
<p>Formal resolution procedures followed (outline)</p>	
<p>If investigated give detail of finding</p>	
<p>If went to hearing tribunal: Decision - Action recommended -</p>	
<p>If mediated: Date of mediation - Were both parties present - Terms of Agreement - Any other action taken -</p>	

<p>If went to appeals tribunal: Decision -</p> <p>Action recommended -</p>	
<p>Resolution</p>	<p><input type="checkbox"/> Less than 3 months to resolve</p> <p><input type="checkbox"/> Between 3 – 8 months to resolve</p> <p><input type="checkbox"/> More than 8 months to resolve</p>
<p>Completed by</p>	<p>Name: _____</p> <p>Position in Transplant Australia Ltd: _____</p> <p>Signature: _____ Date: ____/____/____</p>
<p>Signed by:</p>	<p>Complainant's Name: _____</p> <p>Signature: _____ Date: ____/____/____</p> <p>Respondent's Name: _____</p> <p>Signature: _____ Date: ____/____/____</p>

This record and any notes must be kept in a confidential place. If the complaint is of a serious nature, or is escalated to and/or dealt with at the national level, the original must be forwarded to the National Office of Transplant Australia Ltd and a copy kept at the club/state/district level (whatever level the complaint was made).

Interim action (if any) taken (to ensure child's safety and/or to support needs of person complained about)	
Police contacted	Officers name: _____ Location: _____ Advice provided:
Government agency contacted	Name: _____ Location: _____ Advice provided:
CEO of Transplant Australia Ltd contacted	Name: _____ Location: _____ Date: ____/____/____
Police and/or government agency investigation	Finding:
Internal investigation (if any)	Finding:

Action taken	
Completed by	Name: _____ Position in Transplant Australia Ltd: _____ Signature: _____ Date: ____/____/____
To be signed by Complainant	Complainant (if not a child) Complainant's Name: _____ Signature: _____ Date: ____/____/____

This record and any notes must be kept in a confidential place and provided to the relevant authorities (police and government) should they require them.

Attachment E4: RECORD OF MEDIATION

Present at Mediation	
Date of mediation	
Venue of mediation	
Mediator	
Summary of mediation (minutes attached)	
Outcome of mediation	
Follow-up to occur (if required)	
Completed by:	Name: _____ Signature: _____ Date: ____/____/____

<p>To be signed by Complainant and Respondent</p>	<p>Complainant's Name: _____</p> <p>Signature: _____</p> <p>Date: ____/____/____</p> <p>Respondent's Name: _____</p> <p>Signature: _____</p> <p>Date: ____/____/____</p>
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The original record is to be stored in the office of the CEO of Transplant Australia Ltd.

Attachment E5: RECORD OF TRIBUNAL DECISION

Complainant's Name		Date formal complaint received: ____/____/____
Role/status in TA	<input type="checkbox"/> Administrator (volunteer) <input type="checkbox"/> Parent <input type="checkbox"/> Athlete/player <input type="checkbox"/> Spectator <input type="checkbox"/> Coach/Assistant Coach <input type="checkbox"/> Support Personnel <input type="checkbox"/> Employee (paid) <input type="checkbox"/> Other (please state) <input type="checkbox"/> Official <p style="text-align: right;">.....</p> <p style="text-align: right;">.....</p>	
Name of person complained about		
Role/status in TA	<input type="checkbox"/> Administrator (volunteer) <input type="checkbox"/> Parent <input type="checkbox"/> Athlete/player <input type="checkbox"/> Spectator <input type="checkbox"/> Coach/Assistant Coach <input type="checkbox"/> Support Personnel <input type="checkbox"/> Employee (paid) <input type="checkbox"/> Other <input type="checkbox"/> Official <p style="text-align: right;">.....</p> <p style="text-align: right;">.....</p>	
Location/event of alleged issue		
Description of alleged issue		

Decision Appealed Date of Appeal lodged	
Appeal Hearing Date	
Appeal Decision (attach report)	
Action Recommended	
Completed by	Name: _____ Position in Transplant Australia Ltd: _____ Signature: _____ Date: ____/____/____
To be signed by Complainant and Respondent	Complainant's Name: _____ Signature: _____ Date: ____/____/____ Respondent's Name: _____ Signature: _____ Date: ____/____/____