



AUSTRALIAN  
**PARALYMPIC**  
COMMITTEE

# MEMBER PROTECTION POLICY

Version 4

June 2012

## Contents

Preface - APC Member Protection Policy .....	1
Policy review history.....	2
1. What is the purpose of this policy? .....	4
2. What do words in this policy mean? .....	5
3. Interpretation in this policy.....	8
4. To whom does this policy apply?.....	9
5. What is the Status of this Policy? .....	10
6. Disclosure and enforcement of this policy .....	11
7. Screening .....	12
8. Taking images of children .....	15
9. Alcohol and tobacco.....	17
10. Offences - harassment .....	18
11. Offences - discrimination .....	23
12. APC Codes of Conduct .....	26
13. APC Policies .....	27
14. What is an offence under this policy?.....	28
15. How to make a complaint.....	29
16. What is the process if a Complaint is made?.....	30
17. Investigation of suspected offences .....	32
18. Hearings.....	33
19. Frivolous, vexatious or malicious Complaints .....	36
20. What penalties may be imposed? .....	37
21. When can a decision be appealed? .....	39

## **Preface - APC Member Protection Policy**

The Australian Paralympic Committee (APC) is committed to the health, safety and well-being of all who participate in activities conducted under its jurisdiction and to providing a safe environment.

The benefits of involvement in sport for athletes with disabilities at all levels are self evident. Regular exercise improves health and fitness, while social interaction in a sporting environment can play a major role in helping develop self-esteem and involvement in the local community.

These intrinsic benefits should not be underestimated, nor should the damage which can be done by harassment in sport, which undermines some of the very benefits we seek to promote.

The unfortunate reality is that Paralympic sport is no more immune from acts of discrimination, harassment and abuse than any other sport.

Depending on the nature of the case, harassment or abuse in sport can have devastating effects, not only for the people involved, but also for the organisation involved. As well as exposure to potential legal liability, organisations can suffer very real and long-term damage to their image and reputation. The unpleasant environment created can leave athletes, officials, staff and volunteers suffering from low morale leading to higher turnover. The APC wants to avoid these unnecessary problems.

We recognise that our current and potential athletes and all those who assist them are our most valuable asset. This Member Protection Policy sends a strong message to them that we are committed to ensuring their safety and well-being now and into the future.

Adopting the APC Member Protection policy reflects this dedication to service and protection, however it is only the first step in providing those who come under our jurisdiction with the protection they deserve.

To ensure it is successfully implemented, the Member Protection Policy needs the co-operation and commitment of APC members and participants at all levels. I urge you to lend us that support.

**Greg Hartung**  
**President**  
**Australian Paralympic Committee**

## Policy review history

The APC Member Protection Policy is updated from time to time to bring it into line with any legislative changes and to ensure that it meets the needs of those who are covered by the policy.

Version	Date endorsed by APC Board	Content reviewed/purpose
One	March 2006	Policy created
Two	March 2007	Amended to: <ul style="list-style-type: none"> <li>• include child abuse as an offence (as opposed to the non-specific 'abuse' as an offence),</li> <li>• update the complaint process to make it appropriate for allegations of child abuse (provision for mediation and advising police/other child protection authority),</li> <li>• make it more explicit/clear that those to whom the policy applies must be aware of and comply with relevant state/territory legislation.</li> </ul>
Three	February 2010	Amendments made: <ul style="list-style-type: none"> <li>• Changes to comply with the APC's new status as a company limited by guarantee;</li> <li>• Include this table of policy history;</li> <li>• Updates to reflect ASC requirements notified September 2009, especially state by state requirements (Attachment 4), creation of a Member Protection Declaration (Attachment 5) and other changes.</li> </ul>
Four	June 2012	Amendments made: <ul style="list-style-type: none"> <li>• Table of Contents added</li> <li>• New Clause 3 - Interpretation - added</li> <li>• Order of chapters rearranged to improve document flow.</li> <li>• More comprehensive list of word definitions.</li> <li>• "Member Protection Officer" changed to "Member Protection Information Officer" to fit accepted practice.</li> </ul>

		<ul style="list-style-type: none"> <li>• New 5.3 to indicate when the policy comes into effect.</li> <li>• References to information on the ASC website removed as these links no longer exist or have been moved and modified and are no longer relevant.</li> <li>• New Section 8 – “Taking images of children”.</li> <li>• New Section 9 – “Alcohol and tobacco”.</li> <li>• New Clause 10.10 to cover bullying.</li> <li>• 10.17 – changed “players” to “athletes”.</li> <li>• New Section 13 – “APC Policies” to refer to the full set of APC policies, some of which are directly relevant to this policy.</li> <li>• 17.1 – Slight change to clarify this clause.</li> <li>• New Section 19 “Frivolous, vexatious or malicious Complaints” which incorporates existing material and specifically refers to the appeals process.</li> <li>• Section 20 updated to clarify the penalties that the APC has the power to impose and in 20.3 replaced Australian Olympic Committee with Australian Commonwealth Games Association.</li> <li>• Section 21 – added words to specifically incorporate appeals against a determination by the Chairperson of the Disciplinary Tribunal in the case of a claim that a Complaint is frivolous, vexatious or malicious.</li> <li>• Attachment 4 updated to reflect current legal requirements in each Australian state and territory and repetition of Section 7 content removed.</li> <li>• Clause numbering changes throughout the policy and Attachments resulting from updates and additions.</li> </ul>
--	--	---

## **1. What is the purpose of this policy?**

- 1.1** The purpose of this policy is to protect the health, safety and well being of all people engaged in the activities of the APC. The APC:
- a. seeks to provide a safe environment for all members;
  - b. will not tolerate harassment, discrimination or abuse of members;
  - c. is committed to strong ethical principles and requires that all members comply with principles of responsible and professional behaviour;
  - d. believes that all participants in activities under its jurisdiction have the right:
    - (i) to be treated with respect and dignity,
    - (ii) to have any complaints dealt with in a fair, confidential and sensitive manner, and
    - (iii) to be given the opportunity to be heard before any penalties are imposed.
- 1.2** Certain types of harassment and discrimination are unlawful and, in certain cases, the notification of abuse to the relevant governmental authority is a legal requirement.
- 1.3** The APC seeks to recruit and retain only those people who commit to the principles set out in this Policy. To this end, it reserves the right to obtain a Police Check and undertake a rigorous recruitment process before appointing people to be involved in its activities, especially in roles that may require unsupervised contact with children under 18 years of age.

## 2. What do words in this policy mean?

In this policy the following words shall have the following meaning:

### **Abuse**

means a form of harassment. The meaning is more specifically set out in clauses 10.8 to 10.11 of this Policy.

### **APC**

means Australian Paralympic Committee Limited ACN 061 547 957.

### **APC Constitution**

means the constitution of the APC as amended from time to time.

### **Appeal Body**

for the purposes of appeals under this Policy, means the appeal division of the Court of Arbitration for Sport Oceania Registry.

### **Athlete**

means a person who participates in sporting activities as a competitor.

### **Australian Sports Commission or ASC**

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

### **Child or Children**

means a person or persons who is/are under the age of 18 years.

### **Child abuse**

Children may be harmed by both verbal and physical actions and by people failing to provide them with basic care. Child abuse may include:

- i. 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);
- ii. 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);
- iii. Emotional abuse by ill-treating a child (taunting, sarcasm, name calling, negative criticism, humiliation, yelling, ignoring or placing unrealistic expectations on a child);
- iv. 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 clauses 15 and 16 of this Policy.

**Complainant**

any person or organisation who makes a complaint under the terms of this Policy.

**Disciplinary Officer**

means a person appointed in accordance with Clause 6.2b of this Policy.

**Disciplinary Tribunal**

means the APC tribunal established to hear and determine alleged offences and appeals under this Policy.

**Discrimination**

means a form of harassment which is more specifically set out in Clause 11 of this Policy.

**Existing Appointee**

means a person currently elected, appointed or holding a position in the APC.

**Harassment**

has the meaning set out in Clause 10 of this Policy.

**Member**

means any entity which is a member of the APC in accordance with the APC Constitution as well as groups and individuals associated with the APC as set out in Clause 4.1 of this Policy.

**Member Protection Information Officer**

means a person appointed in accordance with Clause 6.2 of this Policy.

**Official Person**

means a person who acts for or on behalf of the APC in a voluntary or paid capacity in developing and implementing the APC's programs, including coaches, managers, referees, classifiers, or staff members.

**Police Check**

means a police records check which provides a search on a national basis.

**Policy and this Policy**

means this APC Member Protection Policy.

**Position**

means a job whether by way of employment, contract or otherwise and whether paid or unpaid.

**Preferred appointee**

means a person short-listed for a Position.



**Prohibited Person**

means a person who has been convicted of a Serious Sex Offence.

**Recipient**

means the person represented under 15.3 to whom a complaint is made (CEO or Member Protection Information Officer)

**Serious Sex Offence**

means an offence involving sexual activity or acts of indecency including but not limited to:

- i) Rape;
- ii) Indecent assault;
- iii) Sexual assault;
- iv) Assault with intent to have sexual intercourse;
- v) Incest;
- vi) Sexual penetration of child under the age of 16;
- vii) Indecent act with child under the age of 16;
- viii) Sexual relationship with child under the age of 16;
- ix) Sexual offences against people with impaired mental functioning;
- x) Abduction and detention;
- xi) Procuring sexual penetration by threats or fraud;
- xii) Procuring sexual penetration of child under the age of 16;
- xiii) Bestiality;
- xiv) Soliciting acts of sexual penetration or indecent acts;
- xv) Promoting or engaging in acts of child prostitution;
- xvi) Obtaining benefits from child prostitution;
- xvii) Possession of child pornography;
- xviii) Publishing child pornography and indecent articles.

**Sexual Harassment**

means a form of Harassment and as more specifically set out in Clauses 10.5 to 10.7 of this Policy.

**Team Members**

means those athletes who have are part of an Australian Paralympic Team.

**Vilification**

means a form of Harassment and as more specifically set out in Clause 10.14 of this Policy.

### **3. Interpretation in this policy**

- 3.1** A reference to the CEO includes their nominee or any Acting CEO that may be in place from time to time or the duly appointed nominee of the CEO or Acting CEO for the particular issue.
- 3.2** Nothing in this policy permits any Member to act contrary to local laws when outside of Australia. All Members must obey all local laws including in relation to the age limits for tobacco use and alcohol consumption.

## **4. To whom does this policy apply?**

**4.1** This Policy applies to the following groups and individuals associated with the APC:

- a. An entity which is a member of the APC in accordance with the APC constitution;
- b. The APC Board or executive appointees;
- c. Committee and sub-committee members and office bearers;
- d. Administrators and selectors;
- e. Employees;
- f. Player or team management personnel and officials, including coaches, managers, physiotherapists, etc.;
- g. Coaches (including assistant coaches) who:
  - (i) are appointed and/or employed (whether paid or unpaid);  
or
  - (ii) have an agreement (whether or not in writing) with the APC to coach athletes with a disability;
- h. Referees, umpires and other officials (eg linespersons) appointed by the APC;
- i. Athletes who enter any tournament, activity or events (including camps, training sessions) which are held or sanctioned by the APC;
- j. Any other person or organisation (for example a parent/guardian, spectator or sponsor) who or which agrees, in writing, (whether on a ticket, entry form or otherwise) to be bound by this Policy.

## **5. What is the Status of this Policy?**

**5.1** This Policy is issued by resolution of the Board of APC pursuant to the powers contained in Article 5 of the APC Constitution.

**5.2** This Policy may be changed from time to time by the Board of the APC.

**5.3** Any update of this policy will come into effect once it has been approved by the Board of the APC and posted on the APC website.

## **6. Disclosure and enforcement of this policy**

**6.1** The APC must:

- a. adopt and comply with this Policy;
- b. recognise and enforce any penalty imposed under this Policy;
- c. publish, distribute and promote this Policy (and any amendments made to it from time to time) to its members and upon reasonable request make this Policy available for inspection, or copying;
- d. make such amendments to its constitution, rules or policies necessary for this Policy to be enforceable.

**6.2** In addition the APC shall:

- a. appoint a Member Protection Information Officer to fulfil the functions set out in Clauses 15, 16, and 17 of this Policy, and must publish and display the name and contact details of such person to its Members.
- b. appoint a person to the role of "Disciplinary Officer" to fulfil the functions set out in Clauses 16.9, 16.10 and 16.11 of this Policy and to publish and display the name of such person to its Members.

**6.3** All persons to whom this Policy applies have a direct responsibility to ensure they comply with this Policy.

**6.4** The failure to comply with any one of the requirements in this Clause 6 is an offence under this Policy.

## **7. Screening**

**7.1** Screening people for certain positions is a key way the APC and its members seek to protect the health, safety and well being of all those involved in APC activities.

**7.2** Screening (as set out in Clause 7.4 below) is mandatory for Preferred Appointees and Existing Appointees in the following roles:

- a. coaches who are appointed or seeking appointment (whether employed, contracted or otherwise) for reward;
- b. volunteer coaches appointed or seeking appointment who will or are likely to travel away with teams or players under 18 years of age; and
- c. persons appointed or seeking appointment to a role in which that person is likely to have individual and unsupervised contact with people under 18 years of age (eg. a team manager);
- d. such other roles as the APC directs from time to time.

**7.3** It is highly recommended, though not mandatory, that Preferred Appointees and Existing Appointees in the following types of roles are also subject to screening:

- a. volunteer coaches who are likely or certain to travel away with teams or players over 18 years of age; and
- b. any role likely to have contact with people under 18 years of age.

**7.4** For the purposes of this policy, screening shall mean:

- a. Obtaining, where an activity will take place in either Tasmania or the ACT, a completed Member Protection Declaration (MPD) (Attachment 5) and keeping it in a secure place.
- b. following the working with children check laws and requirements in every state and territory in which the person may carry out their

duties and any additional processes and actions according to Attachment 4.

- 7.5** If a MPD (Clause 7.4a) is required but is not provided or it reveals that the person doesn't satisfactorily meet any clause in the MPD, the APC will provide an opportunity for a person to give an explanation. The APC will then make an assessment as to whether the person may be unable by law or otherwise unsuitable to work with people under the age of 18 years. If unsatisfied, the APC will not appoint them to the role.
- 7.6** If a Preferred Appointee or Existing Appointee is not willing to agree to Screening the APC:
- a. in the case of a Preferred Appointee, ought not appoint that person to the role concerned;
  - b. in the case of an Existing Appointee, should take steps to transfer the person to another role which is not set out in Clauses 7.2a and 7.2b. If no appropriate alternative role exists, subject to the obtaining of appropriate legal advice, the appointment of the person should be ended.
- 7.7** All information obtained during Screening must be kept strictly confidential by the person or entity which seeks it. Disclosure of such information should be limited to the legal advisers and the persons within the APC or Member to whom the task of investigating or making the appointment has been delegated. All such information must be returned to any Potential Appointee who is not appointed to the role or destroyed, unless that person agrees to that information or a part of it being retained. For appointed persons, information will be kept on file in a secure location.
- 7.8** It must be a term of the appointment of any successful Preferred Appointee or Existing Appointee that if he/she is convicted of any criminal offence subsequent to their initial Police Check, he/she will immediately notify the APC of such conviction.
- 7.9** Screening under this Policy is the minimum requirement for the APC. In some Australian states and territories, child protection legislation places specific

requirements upon individuals and organisations involved in a range of areas including sport and recreation. State and territory child protection requirements may apply to individuals and organisations originating outside the states with the legislation in place. If a person is required to be screened under a State or Territory law which has an equivalent or higher standard than that set under this Policy, the State screening standard must be complied with.

**7.10** It is an offence under this Policy for a Prohibited Person to work or seek work in the roles set out in Clauses 7.2a and 7.2b of this Policy.



## **8. Taking images of children**

- 8.1** Participants in activities conducted by the APC may be photographed and/or filmed during and in association with those activities.
- 8.2** Participation in APC activities will generally constitute permission to be filmed or photographed where that event is open to members of the public and it can be reasonably expected that video or photographs of the event will be used for acceptable purposes.
- 8.3** The APC will seek to ensure that opportunities to film or photograph children participating in its activities are limited to those situations which normally occur in the context of those activities.
- 8.4** Where possible, the APC may accredit photographers. However, modern technology makes it difficult to fully control the taking of photographs or recording of video by non-accredited people.
- 8.5** The APC may publish images of children under terms specified in agreements signed by the parent/guardian of the child prior to participation in the activity.
- 8.6** Occasionally the APC may require video or photographs of children partially undressed for purposes such as classification, medical treatment or sports science analysis and research. In such cases, the APC will fully inform the child's parent or guardian of the circumstances and the use of the images and the parent or guardian will be required to sign a consent form prior to any images being recorded.

The APC will take all reasonable measures to limit access to such images to those who are required to view them, and only for the purposes for which they were recorded. The images will be permanently deleted or destroyed as soon as they are no longer required.

- 8.7** Parents or guardians of children who do not want their children to be filmed or photographed must advise the APC prior to their child's involvement in the activity. The APC will take all reasonable steps to ensure that these wishes are complied with. In circumstances where it is not possible to guarantee a

reasonable certainty of compliance, the APC will inform the parent or guardian and explain the options for their child, which may include withdrawing from the activity.

- 8.8** The recording and use of video or still images of people involved in APC activities, especially children, for voyeuristic purposes or sexual gratification of any form is a breach of this policy. This includes the distribution of video or images where such distribution is for voyeuristic purposes or sexual gratification of any form.
- 8.9** The APC requires anyone who suspects that images or video of children participating in its activities may be used or is being used for unacceptable purposes to report that use to the APC as soon as possible. Where such activity is suspected of being illegal, it must also be reported to the police.

## **9. Alcohol and tobacco**

- 9.1** The APC recognises that there are health risks associated with alcohol and tobacco.
- 9.2** The APC enforces a Smoking and Alcohol Policy for Australian Paralympic Teams. This policy prohibits the consumption of alcohol and tobacco products by Team Members under the age of 18 and bans smoking by any Team Member in the Australian Team uniform at any time.
- 9.3** The APC also enforces a Drugs and Alcohol Policy for its staff. This policy outlines the responsibility of employees and volunteers to undertake their duties unimpaired by the influence of drugs or alcohol.
- 9.4** The APC allows the responsible and appropriate consumption of alcohol by Australian Paralympic Team Members over the age of 18 and encourages individual sports to set their own specific rules on the consumption of alcohol by Team Members over the age of 18.

## **10. Offences - harassment**

- 10.1** Harassment is any unwelcome behaviour by a person or organisation which is offensive, abusive, belittling or threatening and which is directed at any other person or a group of people.
- 10.2** Whether or not the behaviour is Harassment is to be determined from the point of view of the person receiving the Harassment. It must be assessed objectively in that it must be behaviour that a reasonable person would find unwelcome. It does not matter whether or not the person harassing intended to harass the other person or group.
- 10.3** Harassment can be express or implied, physical, verbal or non-verbal. Examples include, but are not limited to:
- a. Abusive behaviour aimed at humiliating or intimidating (this may also be Vilification);
  - b. Jokes or comments directed at a person's body, looks, age, race, religion, sexuality, sexual orientation or disability (this may also be Discrimination);
  - c. Unwelcome remarks including teasing, name calling or insults (for example to umpires or other officials);
  - d. Innuendo or taunting;
  - e. Offensive emails, letters, notes;
  - f. Displaying offensive materials e.g. posters, computer screen savers;
  - g. Sexual propositions (see also Sexual Harassment).
- 10.4** Harassment includes:
- a. Sexual Harassment (see Clauses 10.5 to 10.7 below);
  - b. Abuse (see Clauses 10.8 to 10.11 below); and
  - c. Vilification (see Clause 10.14 and 10.15 below);

- d. Discrimination (see Clause 11).

**10.5** Sexual Harassment means:

- a. an unwelcome sexual advance; or
- b. an unwelcome request for sexual favours; or
- c. unwelcome conduct of a sexual nature (including oral or written statements of a sexual nature), in circumstances where a reasonable person would have anticipated that the person being harassed would be offended, humiliated or intimidated.

**10.6** Examples of Sexual Harassment may include:

- a. Uninvited touching, kissing, embracing, massaging;
- b. Staring, leering, ogling;
- c. Smutty jokes and comments;
- d. Persistent or intrusive questions about people's private lives;
- e. Repeated invitations to go out, especially after prior refusal;
- f. Sexual propositions;
- g. The use of promises or threats to coerce someone into sexual activity;
- h. The display of sexually explicit material e.g. internet use, computer screen savers, calendars, posters;
- i. Getting undressed in front of others of the opposite sex;
- j. Invading the privacy of others while showering or toileting;
- k. Photographing others while undressing, showering or toileting;
- l. The use of sexually offensive emails, letters, faxes, notes;
- m. Sexual insults and name-calling.

- 10.7** Sexual Harassment may be a criminal offence, for example indecent assault, rape, sex with a minor, obscene telephone calls or letters. If you suspect that a criminal offence may have been committed you should notify the police and/or seek legal advice (see Attachment 1 for more information on reporting and complaints procedures).
- 10.8** Abuse is a form of Harassment. It includes:
- a. physical abuse (e.g. assault);
  - b. emotional abuse, (e.g. blackmail, repeated requests or demands);
  - c. neglect (i.e. failure to provide the basic physical and emotional necessities of life);
  - d. abuse of power which the harasser holds over the harassed. For example relationships that involve a power disparity such as a coach-player, manager-player, employer-employee, doctor-patient have the potential for abuse of that power. People in such positions of power need to be particularly wary not to exploit that power.
- 10.9** Examples of abusive behaviour include:
- a. bullying (see 10.10) and humiliation of players by coaches;
  - b. abuse and insults directed by players or parents at opposing participants;
  - c. abuse of umpires by players and coaches;
  - d. physical intimidation of other players in competition;
  - e. practical jokes which cause embarrassment or which endanger the safety of others.
- 10.10** Bullying is a form of Harassment which can be emotional, verbal or physical or any combination of these elements. Bullying may occur over a period of time. It is often systematic and habitual. Bullying is characterised by the abuse of some form of power disparity between the perpetrator(s) and the victim(s). Bullying can occur between an individual perpetrator or a group of

perpetrators and an individual victim or a group of victims.

Bullying is not dependent upon direct physical or verbal contact. It can take place through intermediaries. Social media and other forms of online and electronic communication, including instant messaging, can be used to bully people without any form of direct contact – often called “cyber bullying”.

**10.11** Child abuse is illegal in all Australian states and territories, with each having its own child protection laws that cover the reporting and investigation of cases of child abuse. Descriptions of the sorts of activity which may be child abuse are to be found in Clause 2 of this policy.

- a. The APC requires that any child who is abused or anyone who reasonably suspects that a child has been or is being abused by someone covered by this policy report it immediately to the police or relevant government agency and the APC Member Protection Information Officer or the CEO of the APC.
- b. All allegations of child abuse will be dealt with promptly, seriously, sensitively and confidentially. A person will not be victimised for reporting an allegation of child abuse and the privacy of all persons concerned will be respected. The APC’s procedures for handling allegations of child abuse are outlined in Attachment 2 of this policy.
- c. 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.

**10.12** Each state and territory in Australia has reporting requirements where there is suspected abuse of children. The web site of the ASC contains information about the people and organisations to notify to report suspected abuse.

**10.13** Some forms of Abuse may constitute a criminal offence, for example, assault. If you suspect that a criminal offence may have been committed you should notify the police and/or seek legal advice.

- 10.14** Vilification involves a person inciting hatred towards, serious contempt for, or severe ridicule of, a person or group of persons by a public act, including any form of communication to the public and any conduct observable by the public. Vilification is an offence under this Policy where it is based on any of the attributes or characteristics set out in clause 11.2.
- 10.15** Some forms of Vilification may constitute a criminal offence, for example where harm is threatened. If you suspect that a criminal offence may have been committed you should notify the police and/or seek legal advice.
- 10.16** It is an offence under this Policy for any person to whom it applies to engage in Harassment.
- 10.17** Although intimate personal relationships or sexual relationships between coaches, managers, umpires or other sport staff members (**Official Persons**) and athletes do not necessarily constitute Harassment, the APC believes they can have harmful effects on the athlete involved, on other athletes, and on the sport's public image. Such relationships can be perceived as exploitative because there is almost always a disparity between the authority, maturity, status and dependence of Official Persons and athletes and, therefore, always a risk that the relative power of the Official Person has been a factor in the development of such a relationship. Therefore, all Official Persons working at all levels in the APC should avoid intimate relationships with athletes and, if an athlete attempts to initiate such a relationship, the Official Person must take responsibility for discouraging such approaches and explaining the ethical basis for doing so.



## 11. **Offences - discrimination**

11.1 Discrimination is treating or proposing to treat a person less favourably than someone else in certain areas of public life on the basis of an attribute or personal characteristic. Requesting, assisting, instructing, inducing or encouraging another person to engage in discrimination is also considered discrimination under this Policy as is any behaviour or conduct which is defined as discrimination under any Federal or State legislation.

11.2 The applicable attributes or characteristics are:

- a. age;
- b. disability - this includes loss of bodily function (e.g. deaf or blind), presence of disease (e.g. hepatitis or HIV), loss of part of the body, disfigurement, malfunction of part of the body, psychological disease, intellectual disability;
- c. marital status - this covers whether the person is single, married, de facto, married but living separately from their spouse, divorced, or widowed;
- d. parental/carer status - this includes whether the person is a step parent, adoptive parent, foster parent or guardian and also includes whether the person is childless or is a carer (e.g. of children, or other dependents);
- e. physical features - this includes a person weight, size, height and other physical features;
- f. political belief or activity;
- g. pregnancy - this includes whether the person has the supposed signs or symptoms of pregnancy (e.g. morning sickness);
- h. race;
- i. religious beliefs or activity;

- j. sex or gender;
- k. sexual orientation;
- l. transgender orientation.

**11.3** Under this Policy, discrimination by the APC is not permitted in:

- a. employment (including unpaid employment);
- b. the provision of goods and services ;
- c. selection or otherwise of any person for competition or team (domestic or international);
- d. entry or otherwise of any player or other person to any competition held or sanctioned by the APC (note the exception in 10.6 below);
- e. obtaining or retaining membership (including the rights and privileges of membership) of the APC or a Member.

**11.4** Discrimination includes direct and indirect discrimination.

*Direct discrimination* occurs when a person treats, or proposes to treat, someone less favorably than they treat, or would treat, someone else who does not have a particular attribute or characteristic.

*Indirect discrimination* occurs where a person imposes or intends to impose a requirement, condition or practice that, on its face, is not discriminatory, but has the effect of discriminating against a person(s) with a particular attribute.

**11.5** Discrimination also includes victimisation. This occurs where a person suffers or is threatened with any detriment or unfair treatment because that person has or intends to pursue their rights under anti-discrimination legislation or this Policy.

**11.6** Discrimination is only permitted if one of the exemptions under the applicable Federal or State legislation applies. These may include:

- a. in relation to the selection of a team for competition or entry to a competition (in Clauses 11.3c and 11.3d above), where the strength, stamina and physique of the competitor is relevant, or;

b. discrimination because of the person's pregnancy, disability or physical features is permitted if it is necessary to protect the health and safety or property of any person or of the public generally.

**11.7** All persons to whom this Policy applies are strongly advised to obtain independent legal advice if they believe that they have been the victim of Discrimination.

**11.8** It is an offence under this Policy for any person or organisation to which it applies to engage in Discrimination.

## **12. APC Codes of Conduct**

- 12.1** To protect the health, safety and well being of participants the APC has developed and issued Codes of Conduct. They form a part of this Policy. The Codes of Conduct are contained in Attachment 3.
- 12.2** The Codes of Conduct apply to the same people to whom this Policy applies (see Clause 4.1).
- 12.3** The Codes of Conduct are designed to encourage organisations and individuals associated with the APC to conduct themselves in a way which the APC considers is appropriate.

### **13. APC Policies**

- 13.1** The APC has created a set of policies to guide and protect its staff, volunteers, athletes and the individuals and organisations with which it deals.
- 13.2** People to whom this policy applies are encouraged to ensure that they are aware of further APC policies which affect them.
- 13.3** The APC publishes all of its public policies, including this one, on its official website.
- 13.4** Policies which relate to staff and volunteers are published internally by the APC and are available to all staff and volunteers.
- 13.5** The APC publishes a set of Team policies for the Australian Paralympic Team. These are published on the official APC website and are made available to Team Members through the Team Handbook (in summary form) and the APC Team Headquarters during the Games.

**14. What is an offence under this policy?**

- 14.1** It is an offence under this Policy for any person or organisation to whom this Policy applies to fail to comply with any obligation imposed on such person or organisation under this Policy.
- 14.2** Any offence, or suspected offence, may be the subject of a Complaint under Clause 15 and/or be investigated and referred to a hearing under Clause 18 of this Policy.

## **15. How to make a complaint**

- 15.1** If any person or organisation (**Complainant**) considers that a person or organisation to whom this Policy applies has committed, or may have committed, an offence under this Policy or breached any part of it, they may make a complaint (**Complaint**).
- 15.2** A Complaint must be made in writing, however it need not be called or referred to as a Complaint. In addition, a person or organisation may provide information verbally under Clause 17.1.
- 15.3** A Complaint must be made to either:
- a. The APC Member Protection Information Officer, or
  - b. the CEO of the APC.
- 15.4** Making a frivolous, vexatious or malicious Complaint is an offence under this Policy.

## 16. What is the process if a Complaint is made?

- 16.1 This section deals with the process for all Complaints except Child Abuse. A complaint of Child Abuse will be dealt with according to Attachment 2.
- 16.2 The Complaints procedure set out in Attachment 1 also applies to the complaints process. To the extent of any inconsistency between this Policy and Attachment 1, this Policy takes precedence.
- 16.3 A Complaint made to the APC Member Protection Information Officer will be passed on to the CEO, subject to Clause 16.4 below.
- 16.4 If a Complaint is made about the CEO or the APC Member Protection Information Officer, that person will not be informed about the Complaint except as part of the Complaint process set out in this Clause 16.
- 16.5 If a Complaint is received, then the person listed under Clause 15.3 to whom it is made (**Recipient**) must:
- a. Ask the Complainant whether he or she wishes the Recipient to:
    - (i) listen and advise the Complainant about what their options are; and/or
    - (ii) act as a mediator or appoint an independent mediator to try and resolve the Complaint by agreement; or
    - (iii) refer the Complaint for a hearing to be held under Clause 18.
  - b. Having determined the Complainant's wishes in Clause 16.5a, the Recipient shall:
    - (i) subject to Clauses 16.5, 16.6 and 16.7, act in accordance with the Complainant's wishes;
    - (ii) keep the matter confidential and only discuss it with people the Complainant has authorised them to speak to about the Complaint; and
    - (iii) inform the relevant government authority, if required by law.



- 16.6** The Recipient may refer the Complaint to the APC Disciplinary Officer, without the approval of the Complainant if the Recipient believes this is warranted by the seriousness of the circumstances.
- 16.7** If the Complainant wishes the Recipient to act as a mediator or to appoint an independent mediator the Recipient shall:
- a. immediately notify the alleged offender, in writing, that a Complaint has been made and provide them with details of the Complaint in writing;
  - b. attempt to mediate or facilitate the mediation of a resolution between the Complainant and the alleged offender.
- 16.8** If a resolution is reached at mediation no further action may be taken under this Policy (except by agreement between the parties). This does not prevent action being taken under State or Federal legislation.
- 16.9** If the Complaint is not resolved at the mediation, or the Complainant requests, the Recipient shall refer the Complaint to the APC Disciplinary Officer.
- 16.10** The Disciplinary Officer shall investigate the Complaint in such manner as he or she thinks fit (**Investigation**). In conducting an Investigation, the Disciplinary Officer may conduct interviews, request copies of relevant documents and all persons bound by this policy shall comply with all reasonable requests by the Disciplinary Officer and co-operate in the conduct of the Investigation.
- 16.11** If, after conducting the Investigation, the Disciplinary Officer considers that the Complaint ought to be the subject of a hearing, he or she shall advise the CEO of the APC who shall then refer the matter to the APC Disciplinary Tribunal.

## **17. Investigation of suspected offences**

- 17.1** If the CEO or the Member Protection Information Officer of the APC (**Recipient**) receives information which suggests on reasonable grounds that an offence under, or breach of, this Policy may have been committed, even if a Complaint has not been received, then that person shall:
- a. investigate the information to ascertain whether or not it appears to the Recipient that, prima facie, there has been a breach of this Policy;
  - b. if so, follow the procedures set out in Clauses 16.1 to 16.11 insofar as they are applicable as if a Complaint had been received.
  - c. inform the alleged offender of the material substance of all of the allegations made against him or her, and of any supporting evidence, so as to give that person a reasonable opportunity to respond to any allegations made.
- 17.2** Except as otherwise provided in this Policy, all information obtained by the Recipient pursuant to this clause must be kept confidential.

## 18. Hearings

- 18.1 Where a Complaint is referred to the APC Disciplinary Tribunal for a hearing under Clause 16.11 the procedures set out in this Clause 18 shall apply.
- 18.2 The CEO of the APC shall as soon as possible:
- a. Determine the composition of the Disciplinary Tribunal, as detailed in Clause 18.3;
  - b. Send to the alleged offender:
    - (i) A notice setting out the alleged offence including details of when and where it is alleged to have occurred; and
    - (ii) a notice setting out the date, time and place for the hearing of the alleged offence which shall be as soon as reasonably practicable after receipt of the Complaint or information; and
    - (iii) a copy in writing of the Complaint or the substance of the information received;  
(Collectively referred to as "**Notice of Alleged Offence**");
  - c. Send to the Complainant(s) and the Chairperson of the Disciplinary Tribunal a copy of the Notice of Alleged Offence.
- 18.3 The Disciplinary Tribunal for each hearing shall be appointed by the APC and shall comprise of the following persons:
- a. a person with considerable previous experience in the legal aspects of a disciplinary tribunal, preferably a barrister or solicitor (who shall be the Chairperson);
  - b. a person with a thorough knowledge of Paralympic sport; and
  - c. one other person of experience and skills suitable to the function of the Disciplinary Tribunal.
- 18.4 However, the Disciplinary Tribunal members may not include:

- a. a person who is a member of the APC Board or the Member's Board (however described); or
- b. a person who would, by reason of their relationship with the Complainant or the alleged offender, be reasonably considered to be other than impartial.

**18.5** The Disciplinary Tribunal shall hear and determine the alleged offence in whatever manner it considers appropriate in the circumstances (including by way of teleconference, video conference or otherwise) provided that it does so in accordance with the principles of natural justice. The purpose of the hearing shall be to determine whether the alleged offender has committed an offence under or is in breach of this Policy. If the Disciplinary Tribunal finds the Complaint proven on the balance of probabilities, it may impose any one or more of the penalties set out in Clause 20.

**18.6** The parties to the hearing shall include the Complainant, the alleged offender, and the APC or a relevant Member represented by an appointed advocate.

**18.7** If at any stage the Disciplinary Tribunal considers that pending the determination of the matter the safety and welfare of the Complainant or others is in jeopardy, it may order that the alleged offender be:

- a. suspended from any role they hold with the APC; and/or
- b. banned from any event or activities held by or sanctioned by the APC; and/or
- c. required not to contact or in any way associate with the Complainant or other person about whom the alleged offence relates;

pending the determination of the Complaint.

**18.8** There is no right of appeal of the decision by a Disciplinary Tribunal under Clause 18.7.

**18.9** Any party may be represented at the hearing by any person who is not or has not been a legal practitioner save that the Disciplinary Tribunal may in special

circumstances give leave for a party to be legally represented where it considers it is necessary in order to do justice to all the parties.

**18.10** Each party shall bear their own costs in relation to the hearing.

**18.11** The Disciplinary Tribunal shall give its decision as soon as practicable after the hearing and will deliver to the following a statement of its written reasons:

- a. the CEO of the APC;
- b. the Complainant;
- c. the alleged offender; and
- d. any other party represented at the hearing.

**18.12** Each member of a Disciplinary Tribunal established under this Policy shall be indemnified by the APC, from any claim or action for loss, damages, or costs made against them arising out of or in connection with their function as a member of the Disciplinary Tribunal under this Policy.

**18.13** Except as otherwise provided in this Policy, all members of a Disciplinary Tribunal shall keep confidential all matters relating to the hearing, including but not limited to the nature of the Complaint, information obtained before and during the hearing and the decision of the Disciplinary Tribunal.

## **19. Frivolous, vexatious or malicious Complaints**

- 19.1** If the alleged offender considers that the Complaint is frivolous, vexatious or malicious, the alleged offender must notify the Chairperson in writing within 48 hours of receipt of the Notice of Alleged Offence. On receipt of such notice, the Chairperson, sitting alone, shall first determine that issue and advise the parties of his or her determination. This determination shall be made as soon as practicable and in whatever manner the Chairperson considers appropriate in the circumstances, provided that he or she does so in accordance with the principles of natural justice.
- 19.2** The decision of the Chairperson under Clause 19.1 may be appealed by the Complainant or the alleged offender to the relevant appeal body under Clause 21 within 72 hours of notification of the determination.

## **20. What penalties may be imposed?**

**20.1** If the Disciplinary Tribunal considers that a person or organisation to whom this Policy applies, has committed an offence under or a breach of this Policy, it may impose any one or more of the following penalties.

**20.2** For offences committed by a Member as designated by the APC constitution:

- a. direct that some or all funding granted or given to it by APC cease for a specified period;
- b. impose a monetary fine for an amount determined by the Disciplinary Tribunal;
- c. impose a warning;
- d. recommend that the Member's membership of the APC be suspended or terminated;
- e. direct that any rights, privileges and benefits provided to the Member by the APC be suspended for a specified period and/or terminated; or
- f. any other such penalty as the Disciplinary Tribunal considers appropriate.

**20.3** For offences committed by individuals:

- a. direct that the offender attend counselling to address their conduct;
- b. recommend that the relevant Member terminate the appointment of any role which the offender holds with such Organisation;
- c. where there has been damage to property, direct that the offender pay compensation to the relevant Organisation or individual which controls or has possession of the property;
- d. impose a monetary fine for an amount determined by the Disciplinary Tribunal;

- e. impose a warning;
- f. direct the offender to repay all or part of any financial assistance (excluding any fee for service, wages or expenses) given to them by the Australian Sports Commission, any Federal or State funding agency, the Australian Commonwealth Games Association, the APC or any other organisation which has provided funding to the offender before they may resume participation in any APC program or APC sanctioned event;
- g. suspend the person for such period and on such terms as the Disciplinary Tribunal sees fit from participation in any APC program or APC sanctioned event; and/or
- h. any other such penalty as the Disciplinary Tribunal considers appropriate.

**20.4** If an offender commits a second or subsequent offence under this Policy, then the Disciplinary Tribunal shall have regard to the previous offence, the penalty imposed and any other relevant factors, in imposing a penalty for the second or subsequent offence.

**20.5** If a penalty is imposed by the Disciplinary Tribunal under Clause 20.1, the CEO of the APC shall, as soon as possible, notify in writing the member of interest.



## 21. When can a decision be appealed?

21.1 Any party to a hearing held under Clause 18 may appeal a decision of a Disciplinary Tribunal.

Any party to a determination under Clause 19 by the Chairperson of a Disciplinary Tribunal following a claim that the Complaint is frivolous, vexatious or malicious may appeal that decision.

21.2 An appeal may only be made in circumstances where:

- a. the Appellant's ability to earn income is substantially affected by the decision or determination;
- b. in the case of a Disciplinary Tribunal, new evidence is available that was unable to be presented to the original Tribunal and which, if accepted, would on the balance of probabilities, be likely to have affected the decision of the Disciplinary Tribunal; or
- c. there is an alleged breach of natural justice. Natural justice incorporates the following principles:
  - (i) a person who is the subject of a Complaint must be fully informed of the allegations against them;
  - (ii) 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;
  - (iii) all parties need to be heard and all relevant submissions considered;
  - (iv) irrelevant matters should not be taken into account;
  - (v) no person may judge their own case;
  - (vi) the decision maker(s) must be, and must be seen to be, unbiased, fair and just;
  - (vii) any penalty imposed must not outweigh the 'crime'.

21.3 An appeal shall be made to the appeal division of the Court of Arbitration for Sport (CAS) Oceania Registry (**Appeal Body**).

**21.4** There is only one right of appeal following the decision of the Disciplinary Tribunal or a determination of the Chairperson following a claim that the Complaint is frivolous, vexatious or malicious. Any appeal must be solely and exclusively resolved by the Appeal Body and the decision of such Appeal Body is final and binding on the parties. Further, no party to such appeal may institute or maintain proceedings in any court or tribunal other than the relevant Appeal Body.

NOTE: This provision does not prevent any person or organisation taking action under any State or Federal legislation for Harassment or any criminal offence.

**21.5** The process for such appeal is as follows:

- a. The Appellant shall within 72 hours of the Disciplinary Tribunal delivering its decision, or a determination of the Chairperson following a claim that the Complaint is frivolous, vexatious or malicious, notify the CEO of the APC of the Appellant's intention to appeal (**Notice of Intention to Appeal**) and complete and file an application to appeal with CAS in accordance with the Code of Sports Related Arbitration.
- b. Within 5 days of lodging the Notice of Intention to Appeal, (or such shorter time as determined by the Appeal Body if there is urgency) the Appellant shall:
  - (i) pay to CAS the relevant fee which shall be as per the Code of Sports Related Arbitration applicable to CAS; and
  - (ii) submit to CAS the grounds of the appeal in writing and provide copies to all persons affected by the Appeal.

If either of the requirements in this Clause 21.5b is not met by the due time the appeal shall be deemed to be withdrawn;

**21.6** On completion of the procedures in Clause 21.5 the Chairman of the Appeal Body shall determine a place, time and date for the hearing of the appeal and as soon as possible thereafter notify all parties to the appeal in writing of such details; and the Code of Sports Related Arbitration shall apply to any appeal under this clause.

- 21.7** Upon hearing the appeal, the Appeal Body may do any one or more of the following:
- a. dismiss the appeal;
  - b. uphold the appeal;
  - c. impose any of the penalties set out in clause 20;
  - d. reduce, increase or otherwise vary any penalty imposed by the initial Disciplinary Tribunal;
  - e. award costs against an unsuccessful appellant in such amount and on such terms as it sees fit in accordance with Clause 21.8.
- 21.8** Other than in exceptional circumstances the Appeal Body shall not award costs against an unsuccessful appellant

### Complaints procedure

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

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

If at any point in the complaint process the APC Member Protection Information Officer or the CEO of the APC considers that a complainant has **knowingly** made an untrue complaint or the complaint is vexatious or malicious, the matter will be referred to the APC Disciplinary Tribunal 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 the APC Member Protection Information Officer. The APC Member Protection Information Officer will:

- take notes about your complaint (which they will keep 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 APC Member Protection Information Officer, 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 the APC Member Protection Information Officer); 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, the APC 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 APC or you may be required to provide the person/people you have complained about with full details of the complaint so they have a fair chance to respond to all the allegations.

### **Step 4**

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

- make a formal complaint in writing to the APC Member Protection Information Officer or the CEO of the APC; or
- 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 APC Member Protection Information Officer or the CEO of the APC 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 APC. In these cases, the APC Member Protection Information Officer or the CEO of the APC 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 APC Member Protection Information Officer or the CEO of the APC 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 the APC Member Protection Information Officer or the CEO of the APC 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, 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

CEO of the APC 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, 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 as 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 Clause 18;
- the complaint is referred to the police or other appropriate authority under **Step 5**, the APC 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 APC 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 the CEO of the APC 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 the CEO of the APC:
  - not to take any action; or
  - to take disciplinary action; or
- under **Step 6**, a decision was made by the APC Disciplinary 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 Clause 21.

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 the APC, you may choose to approach an external agency such as an equal opportunity commission to assist with a resolution.

## **Step 8**

The APC Member Protection Information Officer or the CEO of the APC will document the complaint, the process followed and the outcome. This document will be stored in a confidential and secure place.

### **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 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 2

### 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 that will be followed by the APC in response to an allegation of child abuse.

#### Step 1 - Clarify basic details of the allegation

- Any complaints, concerns or allegations of child abuse should be made or referred to:
  - a. The APC Member Protection Information Officer or
  - b. the CEO of the APC or in their absence their Nominee.
- The initial response of the person who 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. Suggestive or leading questions are to be avoided.
- 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. It may be necessary 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, the allegation is to be reported to the relevant government agency.

### **Step 3 – Protect the child**

- The person listed under Step 1 to whom it is made (**Recipient**) must assess the risks and initiate interim action to ensure the child's/children's safety. Some options that the APC may take 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 Recipient 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 APC 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 the APC 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 (for example, professional counselling) if necessary.
  - Obtain a signed statement and record of interview from the person.
  - Make contact with any witnesses and obtain written and signed statements outlining details of the allegation (what happened, when, how). This should only occur following advice from the relevant authority.
  - Obtain other information that could assist in making a decision on the allegation.
- The information collected during the investigation should be made available to the relevant authorities.

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

#### **Step 5 – Record and analyse all information**

- If an internal investigation was conducted under **Step 4**, the investigator will provide a report to the CEO of the APC or in their absence their Nominee.
- The decision-maker(s) will be the APC Disciplinary Tribunal and will remain separate and at arm's length from the investigator.
- The APC Disciplinary Tribunal 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 will 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, the procedures outlined in Clause 20 of the APC Member Protection Policy apply.
- The APC will check with the relevant state government authority to determine if a report is to be forwarded to it.

## ATTACHMENT 3

### APC Codes of Conduct

The Australian Paralympic Committee has established codes of conduct which apply to those who represent it in various roles.

#### **APC Games Team Staff Code of Conduct**

---

All Australian Paralympic Team Staff Members agree to abide by the Staff Code of Conduct set out below.

My agreement to the Code of Conduct relates to my behaviour in the sporting environment and more generally when I am representing the APC or in any way identifiable as an Australian Paralympic Team staff member.

I acknowledge that the athletes are the focus of the APC's programs and that my involvement in the {insert year} Australian Paralympic Team is directed towards assisting them to achieve their highest possible levels of performance.

I agree to act in a manner that will not bring myself, my sport, or the APC into disrepute. My actions will always consider the following:

#### **Respect for others**

I will respect the rights, dignity and worth of every person I encounter through the {insert year and city} Paralympic Games, regardless of their gender, ability, cultural background or religion. I will:

- treat people with courtesy, respect and regard for their rights and obligations
- show respect for the physical and emotional well being of others
- show respect for other peoples' possessions
- assist in providing an environment that is free from harassment. (Harassment consists of offensive, abusive, belittling or threatening behaviour directed at a person or people. It is behaviour that is unwelcome and that could reasonably be expected to upset the person or people at whom it is directed)
- refrain from initiating a sexual relationship with any athlete in my program and also discourage any attempt by an athlete to initiate a sexual relationship with me, explaining to them the ethical basis of my refusal
- ensure that any physical contact with athletes is appropriate to the situation and necessary for the athlete's skill development
- assist in providing an environment that is free from discrimination. (Discrimination is the unfavourable treatment of a person or people based on prejudice, especially regarding race, religion, gender, age, or sexual preference)

- work constructively with all other team staff members in my sport as part of a support team for the athletes
- assist in providing a safe environment for training and competition by assisting to ensure that equipment and facilities meet safety standards and are appropriate for the athletes
- show concern and caution toward sick and injured athletes by assisting to provide a modified training program where appropriate, allowing further participation in training and competition only when appropriate, encouraging athletes to seek medical advice if required and maintaining the same interest and support toward sick and injured athletes as towards all other athletes in the program
- respect the laws and the customs of the places I visit as an APC representative

### **Respect for myself**

I know that respect for others starts with respect for myself. I will:

- work towards the attainment of my full potential in my role within the {insert year} Australian Paralympic Team and undertake all duties to the best of my ability
- be punctual and reliable
- maintain personal habits of health conducive to sporting excellence
- behave and dress in a dignified manner when representing the APC both in and out of competition
- be a positive role model for my sport and athletes

### **Respect for the APC**

I recognise that the APC has established and manages the {insert year} Australian Paralympic Team and so plays a significant role in supporting the elite side of my sport. I will:

- uphold the standing and reputation of the APC within Australia and overseas
- publicly acknowledge the support of the APC when it is appropriate to do so
- wear the official APC uniform designated for my sport when in competition and other official functions
- co-operate with the APC in establishing and conducting a quality sports program
- comply with the disciplinary and grievance procedures of the APC

The "APC" includes, as well as the organisation, the full-time staff and appointed or elected officials, the State Paralympic Committees and their full-time staff, appointed or elected officials.

## **Respect for the rules and traditions of my sport**

I understand that my conduct affects my performance and that of my fellow staff members and the athletes and that it may also reflect on my sport. I will:

- comply with the program requirements of my sport as laid down by the head coach and accept and respond in a positive manner to constructive criticism
- abide by the spirit, as well as the letter, of the rules of my sport
- accept victory and defeat with dignity and grace
- neither possess nor encourage the use of prohibited drugs, nor participate in any other practices prohibited by the APC

## **APC Athlete Code of Conduct**

---

All Australian Paralympic Team Members agree to abide by the Athlete Code of Conduct set out below.

My agreement to the Code of Conduct relates to my behaviour in the sporting environment and more generally when I am representing the APC or in any way identifiable as an Australian Paralympic Team athlete.

I agree to act in a manner that will not bring myself, my sport, or the APC into disrepute. My actions will always consider the following:

### **Respect for others**

I will respect the rights, dignity and worth of every person I encounter through the {insert year and city} Paralympic Games, regardless of their gender, ability, cultural background or religion. I will:

- treat people with courtesy, respect and regard for their rights and obligations
- show respect for the physical and emotional well being of others
- show respect for other peoples' possessions
- assist in providing an environment that is free from harassment. (Harassment consists of offensive, abusive, belittling or threatening behaviour directed at a person or people. It is behaviour that is unwelcome and that could reasonably be expected to upset the person or people at whom it is directed)
- assist in providing an environment that is free from discrimination. (Discrimination is the unfavorable treatment of a person or people based on prejudice, especially regarding race, religion, gender, age, or sexual preference)
- respect the laws and the customs of the places I visit as an APC representative

## **Respect for myself**

I know that respect for others starts with respect for myself. I will:

- work towards the attainment of my full potential in my sport, my studies and/or occupation
- occupy my time gainfully outside my sport
- maintain personal habits of health conducive to sporting excellence
- behave and dress in a dignified manner when representing the APC both in and out of competition

## **Respect for the APC**

I recognise that the APC has established and manages the {insert year} Australian Paralympic Team and so plays a significant role in supporting the elite side of my sport. I will:

- uphold the standing and reputation of the APC within Australia and overseas
- publicly acknowledge the support of the APC when it is appropriate to do so
- wear the official APC uniform designated for my sport when in competition and other official functions
- co-operate with the APC in establishing and conducting a quality sports program
- comply with the disciplinary and grievance procedures of the APC

The "APC" includes, as well as the organisation, the full-time staff and appointed or elected officials and the State Paralympic Committees and their full-time staff and appointed or elected officials.

## **Respect for the rules and traditions of my sport**

I understand that my conduct affects my performance and that of my team mates and that it may also reflect on my sport. I will:

- comply with the training requirements of my sport as laid down by the coaches and accept and respond in a positive manner to their constructive criticism
- abide by the spirit, as well as the letter, of the rules of my sport
- accept victory and defeat with dignity and grace
- neither possess nor use prohibited drugs, nor participate in any other practices prohibited by the APC

## **APC Staff Code of Conduct**

---

The purpose of the Code of Conduct is to present a list of accepted behaviours by staff of the APC. It is aimed at presenting a professional image to other staff, officers, clients and stakeholders of the APC.

An APC staff member shall:

- Uphold and not injure or compromise the standing and reputation of the APC.
- Comply with published APC protocols and procedures and operate within the spirit of such.
- Treat all individuals and organisations with courtesy, respect and tolerance.
- At all times discharge allotted and accepted responsibilities with integrity.
- Not misuse authority or office for personal gain.
- Not injure or attempt to injure the professional reputation of other staff, officers or members.
- Respect the confidentiality of information which comes to them in the course of their duties.
- Engage in continued learning to improve competence and pursue new areas, as agreed.
- Accept only such work as they believe they are competent to perform and if necessary obtain expert advice.
- Be expected to complete work tasks within your role competently.

## **APC Board Code of Conduct**

---

1. A Director must act honestly, in good faith and in the best interests of the APC as a whole.
2. A Director has a duty to use due care and diligence in fulfilling the functions of office and exercising the powers attached to that office.
3. A Director must use the powers of office for a proper purpose, in the best interests of the APC as a whole. A Director must not allow himself/herself to be compromised by looking to the interests of any organisation which may have nominated him/her or with which he/she is associated.
4. A Director must recognise that the primary responsibility is to the members of the APC as a whole but should, where appropriate, have regard for the interests of all stakeholders of the APC.



5. A Director must not make improper use of information acquired as a Director.
6. A Director must not take improper advantage of the position of Director.
7. A Director must not allow personal interests, or the interests of any associated person or organisation, to conflict with the interests of the APC.
8. A Director has an obligation to be independent in judgment and actions and to take all reasonable steps to be satisfied as to the soundness of all decisions taken by the Board.
9. Confidential information received by a Director in the course of the exercise of directorial duties remains the property of the APC and it must not be disclosed, or allowed to be disclosed, unless that disclosure has been authorised by the APC, or the person from whom the information is provided, or is required by law.
10. A Director should not engage in conduct likely to bring discredit upon the APC.
11. A Director has an obligation, at all times, to comply with the spirit, as well as the letter of the law and with the principles of this Code.
12. A Director shall at all times provide necessary and appropriate support and assistance to the President in the proper exercise and conduct of his/her role, on behalf of the APC.
13. Directors shall respect each other, and their involvement.
14. A Director shall not act publicly (on behalf of the APC) unless previously authorised.
15. A Director must act properly with 'members' and refer any organisational query to the President and/or CEO.
16. A Director shall be as honest in describing the affairs of the Board at all times (within commercial and authorised discretionary limits) treating the role as an agent of the Board respectfully at all times.
17. A Director must not interfere in management and shall not directly liaise with staff unless previously authorised by the CEO.
18. A Director must not act in manners which bring discredit, or adverse media to the organisation.
19. A Director has an obligation to act in the spirit, and the letter of the law, in terms of this Code.

## Screening Requirements

This attachment sets out the screening process to be followed by the APC in each state and territory for people who work with, coach, supervise or have regular unsupervised contact with people under the age of 18 years through programs or activities undertaken by the APC ("**child-related position**").

State and territory Working With Children Check ("**WWCC**") requirements may also apply to individuals who visit states which have screening laws. For example, those travelling with the teams into New South Wales for training camps, competition or other activities, must comply with NSW law.

The measures in this attachment are in addition to any other requirements specified in the APC Member Protection Policy.

Where programs are managed by other organisations under an agreement with the APC, the APC will require the organisation managing the program to comply with state and territory requirements for working with children.

The following sections are based on information obtained in May 2012, and are subject to change at any time based on changes to state and territory laws.

### Australian Capital Territory (ACT)

There is currently no legislation governing working with children in the Australian Capital Territory. However, all people engaged in child-related positions which are voluntary or remunerated in any way will be required to complete a Member Protection Declaration (Attachment 5) and apply for a national police check.

1. If the APC has deemed the position to be child-related, all volunteers and candidates for remunerated positions ("**Candidates**") will be notified at the interview or other formal selection process that appointment to the position will be dependent on completing the Member Protection Declaration and applying for a national police check.
2. Successful Candidates and volunteers will be asked to complete the Member Protection Declaration and national police check application form. The Candidate or volunteer will be required to submit the national police check application form to the Australian Federal Police. The APC will reimburse the cost of the application to the Candidate or volunteer. The form can be found at the following link:  
[www.afp.gov.au/what-we-do/police-checks/national-police-checks.aspx](http://www.afp.gov.au/what-we-do/police-checks/national-police-checks.aspx)
3. Once the check has taken place, the Candidate or volunteer must provide a copy of the certificate to the APC prior to commencing employment or volunteering.

4. A copy of the certificate will be retained in the Candidate's/volunteer's APC Human Resources ("**APC HR**") file. Details of the check will also be recorded on the WWCC record sheet maintained by the APC.

## **New South Wales**

### ***Paid employment***

In NSW the Commission for Children and Young People Act 1998 (NSW) outlines the requirements of an organisation for any person engaging in "child-related employment", which is defined in the Act as work which primarily involves direct, unsupervised contact with children.

As the Act does not stipulate an age at which WWCC becomes mandatory for employees in child-related employment, all employees, including people under 18 years of age, are required to obtain a WWCC.

1. For any position deemed by the APC to be child-related, all candidates will be notified at the interview process that appointment to the position will be dependent upon a satisfactory WWCC outcome.
2. All successful candidates must complete the Applicant Declaration and Consent form for the WWCC, which can be found at the following link - <http://kids.nsw.gov.au/> - and return it to the APC. The APC will complete the employer request form and submit it to Communities NSW (Commission for Children and Young People).
3. A copy of all forms as well as the successful Working with Children Clearance Letter will be retained in the candidate's APC HR file. Details of the check will also be recorded on the WWCC record sheet maintained by the APC.

### ***Volunteers***

In NSW, the WWCC is only applicable for paid employment. However, some volunteers in high risk roles must also be checked. These are volunteers who mentor disadvantaged children in family-like relationships, or provide intimate personal care (e.g. bathing or toileting) for disabled children. All other volunteers or students on placement working with children must sign the Volunteer/Student Declaration.

#### ***Non high risk volunteer role***

1. The APC will determine if the volunteer position is a child-related position and if it is a high risk volunteer role.
2. Volunteers who will NOT be engaged in high risk roles must complete the Volunteer/Student Declaration form which can be found at the following link - <http://kids.nsw.gov.au/> - and return it to the APC prior to their commencement in the role.
3. The completed Volunteer/Student Declaration form will be filed in the APC's volunteer APC HR file, with the Volunteer Agreement between the APC and the volunteer.

### **High risk volunteer role**

1. The APC will determine if the volunteer position is a child-related position and if it is a high risk volunteer role.
2. Volunteers who will be engaged in high risk roles must complete the Applicant Declaration and Consent form for the WWCC, which can be found at the following link - <http://kids.nsw.gov.au/> - and return it to the APC. The APC will complete the employer request form and submit it to Communities NSW (Commission for Children and Young People).
3. A copy of all forms as well as the successful Working with Children Clearance Letter will be retained in the volunteer's APC HR file. Details of the check will also be recorded on the WWCC record sheet maintained by the APC.

### **Notification of relevant employment proceedings**

In NSW there is a requirement by law that the APC will notify the Commission for Children and Young People of the details of any employee against whom relevant employment proceedings have been completed, and the findings of the investigation.

A relevant employment proceeding is a completed employee disciplinary proceeding where the APC has found reportable conduct has occurred by either a paid employee or volunteer.

The APC accepts the definition of reportable conduct used by the NSW Office of Communities Commission for Children and Young People (retrieved 30 May 2012), which summarises detailed provisions set out in section 33 of the [Commission for Children and Young People Act 1998](#):

*Reportable conduct is:*

- *any sexual offence, or sexual misconduct, committed against, with, or in the presence of, a child; or*
- *any child pornography offence or misconduct involving child pornography; or*
- *any child-related personal violence offence; or*
- *an offence of filming for indecent purposes committed against, with, or in the presence of, a child under section 21G or 21H of the [Summary Offences Act 1988](#); or*
- *any assault, ill-treatment or neglect of a child; or*
- *any behaviour that causes psychological harm to a child,*

*and in any case whether or not the child consents.*

*Conduct outside work can be reportable, if the employer has the capacity to investigate it and make a finding.*

The following forms will need to be completed if a complaint has been made and employment proceedings have taken place:

- Relevant Employment Proceedings Notification and Summary
- Relevant Employment Proceedings Records Release
- Relevant Employment Proceedings Employee Advisory letter

The following forms are to be submitted to the Commission for Children and Young People:

- Relevant Employment Proceedings Notification and Summary

The following forms are to be retained by the APC and filed in the employee's/volunteer's APC HR file:

- Relevant Employment Proceedings Notification and Summary
- Relevant Employment Proceedings Records Release
- Relevant Employment Proceedings Employee Advisory letter (the original of this letter should be provided to the employee)

The above forms can be found by clicking on this link and selecting the employer tab - <http://kids.nsw.gov.au/>

## **Northern Territory**

In the Northern Territory the Care and Protection of Children Act 2007 (NT) outlines the requirements of an organisation regarding any person engaging in "child-related work".

### ***Paid employment and volunteers (over the age of 15)***

1. If the APC has deemed the position to be child-related, all volunteers and candidates for remunerated positions ("**Candidates**") will be notified at the interview or other formal selection process that appointment to the position will be dependent on satisfactorily completing the WWCC.
2. Successful Candidates and volunteers will be required to complete the Working with Children Employment Application for paid employment or the Working with Children Volunteer Application for volunteer work, which can be accessed at: <http://www.workingwithchildren.nt.gov.au/forms.html>.
3. For paid employment, the Candidate must ensure that the form is completed correctly, the 100 point identification check has been completed by a qualified person, and the form submitted to SAFE NT. The APC will reimburse the Candidate for the cost of the screening.
4. For volunteer positions, the volunteer must ensure that the form is completed correctly, the 100 point identification check has been completed by a qualified person, and the form submitted to APC HR to complete Section E of the form and submit it to SAFE NT. The APC will pay for the cost of the screening.

5. Once the clearance letter is received the Candidate or volunteer must provide a copy of the letter to APC HR.
6. The details of the clearance letter will be recorded on the WWCC record sheet maintained by the APC and the copy will be placed in the Candidate's or volunteer's APC HR file.

## Queensland

In Queensland, the Commission for Children and Young People and child Guardian Act 2000 (Qld) outlines the requirements of an organisation for any person engaging in "child-related work".

### *Paid employment and volunteers (over the age of 18)*

1. If the APC has deemed the position to be child-related, all volunteers and candidates for remunerated positions ("**Candidates**") will be notified at the interview or other formal selection process that appointment to the position will be dependent on satisfactorily completing the WWCC.
2. Successful Candidates and volunteers will be required to complete the Paid Employee Blue Card Application Form for paid employment or the Volunteer Blue Card Application Form for volunteers, which can be accessed at: <http://www.ccypcg.qld.gov.au/bluecard/index.html>
3. The Candidate or volunteer must ensure that the form is completed correctly and the form is submitted with certified proof of identity documents to APC HR for submission to the Commission for Children and Young People and Child Guardian. The cost of the application will be paid for by the APC.
4. Once the blue card is received the Candidate or volunteer must provide a copy of it to APC HR and the details of the blue card will be recorded on the WWCC record sheet maintained by the APC and the copy will be placed in the Candidate's or volunteer's APC HR file.

## South Australia

### *Paid employment and volunteers*

In South Australia, the Children's Protection Act 1993 (SA) outlines the requirements of an organisation for any person engaging in "child-related work".

1. If the APC has deemed the position to be child-related, all volunteers and candidates for remunerated positions ("**Candidates**") will be notified at the interview or other formal selection process that appointment to the position will be dependent on satisfactorily completing the WWCC.
2. The Candidate or volunteer must read and complete the Informed Consent Form Guidelines and the Informed Consent Form. The Form and Guidelines can be accessed on the website of the Screening Unit of the Department for

Communities and Social Inclusion at:  
<http://www.dcsi.sa.gov.au/pub/Default.aspx?tabid=934>

3. The Candidate or volunteer is to ensure that the form is completed correctly, the 100 point identification check has been completed by a verifying officer and the form returned to APC HR for the requesting officer section to be completed. APC HR will then send the form to the Department of Communities and Social Inclusion. The APC will pay for the cost of the screening.
4. Once the clearance letter is received, the Candidate or volunteer must provide a copy of the letter to APC HR.
5. A copy of the successful Working with Children Clearance letter will be retained in the Candidate's or volunteer's APC HR file. Details of the check will also be recorded on the WWCC record sheet maintained by the APC.

### ***Exemptions from the requirement to conduct criminal history assessments***

In some circumstances the following people may be exempt from undertaking a criminal history assessment, unless that person is also involved in a function or event conducted by the APC which involves the care of children in overnight accommodation:

- A person volunteering in an activity in which their child ordinarily participates;
- A person who volunteers who is less than 18 years of age;
- A person working or volunteering for a short-term event or activity of less than 10 days duration or for no more than 1 day in any month;
- A person occupying a position in which all work involving children is undertaken in the physical presence of the child's parents or guardians and in which there is ordinarily no physical contact with the children;
- A person who undertakes, or a position that only involves, work that is primarily provided to adults or the community generally and is not provided to any child on an individual basis; or
- A person who has regular contact with a child as part of an employment relationship with that child (such as a person working alongside a child or supervising an employee who is a child);

## **Tasmania**

### ***Paid employment and volunteers***

There is currently no legislation governing working with children in Tasmania. However, all people engaged in child-related positions which are voluntary or remunerated in any way will be required to complete a Member Protection Declaration (Attachment 5) and apply for a national police check.

1. If the APC has deemed the position to be child-related, all volunteers and candidates for remunerated positions ("**Candidates**") will be notified at the interview or other formal selection process that appointment to the position will be dependent on completing the Member Protection Declaration and applying for a national police check.

2. Successful Candidates and volunteer will be asked to complete the Member Protection Declaration and the Consent To Check and Release Tasmania and National Police History Record Form and submit it to Tasmanian Police for screening to take place. The form can be found at : [www.police.tas.gov.au](http://www.police.tas.gov.au)
3. The application process is the responsibility of the Candidate or volunteer and they must ensure they read, understand and comply with the application form and guide. The cost of the application will be reimbursed to the Candidate or volunteer by the APC.
4. Once the check has taken place, the Candidate or volunteer must provide a copy of the certificate to the APC prior to commencing employment or volunteering.
5. A copy of the certificate will be retained in the Candidate's/volunteer's APC Human Resources ("**APC HR**") file. Details of the check will also be recorded on the WWCC record sheet maintained by the APC.

## **Victoria**

### ***Paid employment and volunteers (over the age of 18)***

In Victoria the Working with Children Act 2005 (Vic) outlines the requirements of an organisation for any person engaging in "child-related work".

1. If the APC has deemed the position to be child-related, all volunteers and candidates for remunerated positions ("**Candidates**") will be notified at the interview or other formal selection process that appointment to the position will be dependent on satisfactorily completing the WWCC.
2. The Candidate or volunteer will be required to obtain the Working with Children Check Application Guide and Form from any Australia Post Office in Victoria.
3. The Working with Children Check Application Form must be submitted **in person** at a participating Australia Post outlet. The application process is the responsibility of the Candidate or volunteer and they are to ensure they read, understand and comply with the application form guide. The cost of the application will be reimbursed to the Candidate or volunteer by the APC.
4. The Candidate or volunteer will receive a receipt number once the form has been submitted to Australia Post. This receipt number is to be provided to APC HR, which will then record the receipt number on the WWCC record sheet maintained by the APC, as a temporary record until the assessment notice is received.
5. Once the assessment notice is received, the Candidate or volunteer must provide a copy of the assessment notice to APC HR.
6. A copy of the assessment notice will be retained in the Candidate's or volunteer's APC HR file. Details of the check will also be recorded on the WWCC record Sheet maintained by the APC.



Further Information can be found at the following link:  
<http://www.justice.vic.gov.au/workingwithchildren/home/protecting+our+children/>

## Western Australia

### *Paid employment and volunteers (over the age of 18)*

In Western Australia the Working with Children (Criminal Record Checking) Act 2004 (WA) outlines the requirements of an organisation for any person engaging in "child-related work".

1. If the APC has deemed the position to be child-related, all volunteers and candidates for remunerated positions ("**Candidates**") will be notified at the interview or other formal selection process that appointment to the position will be dependent on satisfactorily completing the WWCC.
2. The Candidate or volunteer will be required to complete the Working with Children Check Application Guide and Form from any Australia Post Office in Western Australia.
3. The Working with Children Check Application Form must be submitted **in person** at a participating Australia Post outlet. The application process is the responsibility of the Candidate or volunteer and they are to ensure they read, understand and comply with the application form guide. The cost of the application will be reimbursed to the Candidate or volunteer by the APC.
4. The Candidate or volunteer will receive a receipt number once the form has been submitted to Australia Post. This receipt number is to be provided to APC HR, which will then record the receipt number on the WWCC record sheet maintained by the APC, as a temporary record until the assessment notice is received.
5. Once the assessment notice is received, the Candidate or volunteer must provide a copy of the assessment notice to APC HR.
6. A copy of the assessment notice will be retained in the Candidate's or volunteer's APC HR file. Details of the check will also be recorded on the WWCC record Sheet maintained by the APC.

Further Information can be found at the following link: [www.checkwwc.wa.gov.au](http://www.checkwwc.wa.gov.au)

Member Protection Declaration

The Australian Paralympic Committee (APC) has a duty of care to all those associated with its programs and to the individuals and organisations to whom its Member Protection Policy applies. As a requirement of the APC Member Protection Policy, the APC must inquire into the background of those who undertake any work, coaching or regular unsupervised contact with people under the age of 18 years.

Where there is no legislation governing WWCC (currently ACT and Tasmania) prospective employees and volunteers are required to complete this declaration.

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, other forms of harassment or acts of violence.
4. I am not currently serving a sanction for an anti-doping rule violation under an ASADA approved anti-doping policy applicable to me.
5. I will not participate in, facilitate or encourage any practice prohibited by the World Anti-Doping Agency Code or any other ASADA approved anti-doping policy applicable to me.
6. To my knowledge there is no other matter that the APC may consider to constitute a risk to its members, employees, volunteers, athletes or reputation by engaging me.
7. I will notify the CEO of the organisation(s) engaging me immediately upon becoming aware that any of the matters set out in clauses 1 to 6 above has changed.

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

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

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