



MEMBER PROTECTION POLICY (PART A)

1. New South Wales Cycling Federation Inc. (Cycling NSW or CNSW) Core Values

VISION:

- ◆ Cycling NSW: a leader and major player in New South Wales' sporting culture growing from its rich heritage into a respected sporting activity accessible to all residents of New South Wales

MISSION

- ◆ To develop and promote competitive cycling in NSW for the benefit and enjoyment of all members.
 - **Implement strategies that provide opportunities for broad participation in responsible cycling activities**
 - **Develop policies and strategies with federal, state and local authorities to provide an environment within which cycling can grow and develop**
 - **Promote the benefits of cycling as a healthy year-round sport catering for competitive and recreational activities for all in a team or individual capacity**
 - **Maintain NSW's record of successful national and international performances**
 - **Ensure that the federation is appropriately resourced to achieve its goals and vision**
 - **Ensure best practice in governance, management and administration**
 - **Maintain custodianship of cycling's heritage**

CORE VALUES	Corporate Culture
Leadership	<ul style="list-style-type: none"> • Cycling NSW is the peak body for the sport of cycling in New South Wales representing the interests of all constituent clubs and members • Cycling NSW is committed to building closer alliances with the recreational and trade sectors of the cycling industry
Unity	<ul style="list-style-type: none"> • Cycling NSW works with affiliated Clubs to achieve a unified vision through a commitment to common goals & objectives. • Cycling is available to all Australians regardless of age, gender, race, geographic location or ability. • Cycling NSW is committed to the equitable representation and servicing of all disciplines of competitive cycling
Integrity	<ul style="list-style-type: none"> • Cycling NSW's decision making is honest, appropriate, accountable & transparent. • Cycling NSW's actions support their statements.
Sportsmanship	<ul style="list-style-type: none"> • Cycling NSW ensures all codes of conduct are adhered to. • Cycling NSW ensures a clean sport through dissemination of drug education.
Professionalism	<ul style="list-style-type: none"> • Cycling NSW is the peak body for cycling in New South Wales. • Cycling NSW provides value and service to its members through the provision of professional services. • Cycling NSW operates according to sound business principles.
Fun	<ul style="list-style-type: none"> • Cycling is a sport. It is healthy, exciting, entertaining and social. It is both a competitive and a family sport.

2. Purpose of this Policy

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

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

This policy has been endorsed by the NSW Management Committee and has been adopted as an annexure to the NSW By-Laws. The policy starts on 1 January 2006 and will operate until replaced. This policy and/or its attachments may be amended from time to time by resolution of the Council. Copies of the policy and its attachments can be obtained from our website www.nsw.cycling.org.au or upon request from the NSW Office.

3. Who This Policy Applies To

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

- Individuals sitting on boards, committees and sub-committees;
- Employees and volunteers;
- Support personnel (e.g. managers, mechanics, chaperones);
- Coaches and assistant coaches;
- Athletes and players;
- Commissaires and other officials;
- Members, including life members;
- Member associations;
- Affiliated clubs and associated organisations;
- Peak associations including NSW and the national body;
- Any other person or organisation that is a member of or affiliated to NSW, CA or the International Cycling Union (UCI);
- Parents, guardians, spectators and sponsors to the full extent that is possible.

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

4. Code Of Conduct

NSW requires every individual and organisation bound by this policy to:

- 4.1 Be ethical, fair and honest in all their dealings with other people and NSW;
- 4.2 Treat all persons with respect and courtesy and have proper regard for their dignity, rights and obligations;
- 4.3 Always place the safety and welfare of children above other considerations;
- 4.4 Comply with NSW's constitution, rules and policies including this member protection policy;
- 4.5 Operate within the rules and spirit of the sport;
- 4.6 Comply with all relevant Australian laws (Federal and State), particularly anti-discrimination and child protection laws;
- 4.7 Be responsible and accountable for their conduct; and
- 4.8 Abide by the relevant Codes of Conduct outlined in Part D of this policy.

5. Organisational Responsibilities

NSW and its affiliated Clubs, must:

- 5.1 Adopt, implement and comply with this policy;
- 5.2 Publish, distribute and otherwise promote this policy and the consequences for breaching it;
- 5.3 Promote appropriate standards of conduct at all times;

- 5.4 Promptly deal with any breaches of or complaints made under this policy in an impartial, sensitive, fair, timely and confidential manner;
- 5.5 Apply this policy consistently without fear or favour;
- 5.6 Recognise and enforce any penalty imposed under this policy;
- 5.7 Ensure that a copy of this policy is available or accessible to the persons to whom this policy applies
- 5.8 Appoint or have access to appropriately trained people as Member Protection Officers (MPOs) to receive and handle complaints and allegations and display the names and contact details of MPOs in a way that is readily accessible; and
- 5.9 Monitor and review this policy at least annually.

6. Individual Responsibilities

Individuals bound by this policy are responsible for:

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

7. Policy Position Statements

Child Protection Policy

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

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

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

CNSW strongly encourages anyone who reasonably suspects that a child has been or is being abused by someone within our sport, to report it immediately to the police or relevant government agency and a CNSW MPO. Descriptions of the sorts of activity which may be abuse are in the Dictionary at clause 11.

All allegations of child abuse will be dealt with promptly, seriously, sensitively and confidentially. A person will not be victimised for reporting an allegation of child abuse and the privacy of all persons concerned will be respected. Our procedures for handling allegations of child abuse are outlined in Part C Attachment C4 of this policy.

If anyone bound by this policy reasonably suspects that a child is being abused by his or her parent/s, they are advised to contact the NSW Department of Community Services.

7.2 Anti-Discrimination and Harassment Policy

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

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

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

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

If any person feels they are being harassed or discriminated against by another person or organisation bound by this policy, please refer to our complaints procedure outlined in Part C Attachment C1 of this policy. This will explain what to do about the behaviour and how CNSW will deal with the problem.

7.3 **Sexual Relationships Policy**

CNSW takes the position that sexual relationships between coaches and adult athletes should be avoided. CNSW takes the view that such relationships, while not necessarily constituting unlawful harassment, can have harmful effects on the individual athlete involved, on other athletes and coaches, and on the sport's public image. Such relationships tend to be intentionally or unintentionally exploitative because there is usually a disparity between coaches and athletes in terms of authority, power, maturity, status and dependence. CNSW's policy position is similar to other organisations who disallow professionals such as teachers, doctors and counsellors to have sexual relationships with their clients or students.

Should a sexual relationship develop between an athlete and coach, CNSW may investigate whether any action against the coach is necessary. Factors that may be relevant to consider are the age and maturity of the athlete relative to the coach, the financial or emotional dependence of the athlete on the coach, and the likelihood of the relationship having any adverse impact on the athlete and/or other athletes. If it is determined that the sexual relationship is inappropriate, action may be taken to stop the coaching relationship with the athlete. Action may include transfer, a request for resignation or dismissal from coaching duties.

In the event that an athlete attempts to initiate an intimate sexual relationship, the coach must take personal responsibility for discouraging such approaches, explaining the ethical basis for such action. The coach may wish to approach the CNSW MPO if they feel harassed.

The law is always the minimum standard for behaviour within CNSW and therefore sex with a child is a criminal offence.

8. **Complaints Procedures**

8.1 **Complaints**

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

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

All complaints will be dealt with promptly, seriously, sensitively and confidentially. Our complaint procedures are outlined in Part C Attachment C1 of this policy.

8.2 Vexatious Complaints & Victimisation

CNSW aims to ensure our complaints procedure has integrity and is free of unfair repercussions or victimisation. If at any point in the complaint process the MPO or CEO considers that a complainant has **knowingly** made an untrue complaint or the complaint is vexatious or malicious, the matter may be referred to the CNSW Disciplinary Committee for appropriate action which may include disciplinary action against the complainant pursuant to CNSW By-Laws.

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

8.3 Mediation

CNSW aims to resolve complaints expediently while ensuring natural justice is provided for all concerned. In many cases, complaints can be resolved by agreement between the people involved with no need for disciplinary action. The people involved in a formal complaint - the complainant and the person complained about (respondent) - may also seek the assistance of a neutral third person or a mediator. Lawyers may be present to assist the complainant and/or respondent.

Mediation may occur either before or after an investigation of a complaint. If a complainant wishes to try and resolve the complaint with the assistance of a mediator, the MPO will, in consultation with the complainant and the CEO, arrange for a mediator to mediate the complaint. More information on the mediation process is outlined in Part C Attachment C2 of this policy.

8.4 Tribunals

A hearings tribunal may be formed to hear a formal complaint that has been referred by the MPO to the CEO, or an alleged breach of the policy. Our tribunal hearings procedure shall be conducted in accordance with the provisions of Rules 133 to 135 of the CNSW By-Laws.

A respondent may lodge one appeal only to the appeal tribunal in respect of a decision of a hearing tribunal. The decision of the appeal tribunal is final and binding on the people involved to the appeal. Our appeals process shall be in accordance with the provisions of Rules 136 and 137 of the CNSW By-Laws.

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

9. What is a Breach of this Policy

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

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

10. Forms of Discipline

If an individual or organisation to which this policy applies breaches this policy, one or more forms of discipline may be imposed. These may include making a verbal or written apology, paying a fine, being suspended or de-registered or having a person's appointment or employment terminated. More information on the range of disciplinary measures and the factors that will be considered before imposing discipline is at Part C Attachment C6 of this policy.

11. Dictionary

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

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

Affiliated club means any cycling club, association or organisation within Australia that has been accepted as an affiliate of CA, CNSW or other constituent (state or territory) associations.

CEO (Chief Executive Officer) means the principal officer of CNSW

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

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

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

Complaint means a complaint made under clause 8 of this policy.

Complainant means the person making a complaint.

Discrimination means treating or proposing to treat a person less favourably than someone else in certain areas of public life on the basis of an attribute or personal characteristic they have. The relevant attributes or characteristics are:

- Age;
- Disability;
- Marital status;
- Parental/carer status;
- Physical features;
- Political belief/activity;
- Pregnancy;
- Race;
- Religious belief/activity;
- Sex or gender;
- Sexual orientation;

- Trade union membership/activity;
- Transgender orientation.

Some Clubs may include additional characteristics.

Discrimination is not permitted in the areas of employment (including volunteer and unpaid employment); the provision of goods and services; the selection or otherwise of any person for competition or a team (domestic or international); the entry or otherwise of any player or other person to any competition; obtaining or retaining membership of an organisation (including the rights and privileges of membership).

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

Discrimination may be direct or indirect. **Direct discrimination** is treating, or proposing to treat someone less favourably because of a characteristic (such as race, sex, age etc), in the same or similar circumstances. **Indirect discrimination** is imposing or intending to impose a requirement, condition or practice that is the same for everyone but which has an unequal or disproportionate effect on particular individuals or groups.

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

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

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

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

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

Member means a constituent association, life member or individual member who has been accepted as such by CNSW or an affiliated club and who has paid any applicable membership subscription fee.

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

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

Member Protection Officer (MPO) means a person trained to be the first point of contact for a person reporting a complaint under, or a breach of, this policy. The MPO provides confidential information and moral support to the person with the concern or who is alleging harassment or a breach of this policy. They help the complainant deal with any emotions they may have about what has happened and operate as a sounding board as the complainant decides what they want to do. The MPO may accompany the complainant in anything they decide to do, if it feels appropriate and they are happy to do it.

Natural justice incorporates the following principles:

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

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

Policy and this policy mean this Member Protection Policy.

Respondent means the person who is being complained about.

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

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

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

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

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

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

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

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

PART B: CYCLING NEW SOUTH WALES' CHILD PROTECTION REQUIREMENTS

Background

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

In New South Wales child protection legislation places specific requirements upon individuals and organisations involved in a range of areas including sport and recreation.

Please be aware that state and territory child protection requirements also apply to individuals and organisations originating outside of the states with the legislation in place. For example, CNSW or an affiliated club takes junior players to Queensland for training camps, competition or other activities, those traveling with the teams must comply with the Queensland legislative requirements.

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

- Provide opportunities for juniors to contribute to and provide feedback on program development;
- Provide education and/or information on child abuse and child protection to those involved in our sport such as coaches, juniors, parents and officials; and
- Meet the specific requirements of NSW State Government legislation.

Attachment B1: NEW SOUTH WALES REQUIREMENTS FOR CHECKING PEOPLE TO WORK WITH CHILDREN

This information is subject to change at any time. Refer to the NSW Commission for Children and Young People website: www.kids.nsw.gov.au or contact 02 9286 7219.

All NSW clubs and associations who engage/employ people in child-related activities (in a paid or voluntary capacity) must meet the requirements of the Working With Children Check. This is a legal requirement. CA members with Cycling NSW and its affiliate clubs are required to:

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

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

Employment includes work done:

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

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

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

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

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

Reportable conduct is:

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

Attachment B4: CHILD PROTECTION REQUIREMENTS

This attachment sets out the screening process for people who currently occupy or who apply for any work (paid or voluntary) in our federation that involves working with people under the age of 18 years]

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

Cycling New South Wales Requirements

Under the provisions of this Member Protection Policy, CNSW and its affiliated clubs are required to:

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

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

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

If unsatisfied, then CNSW or its affiliated clubs will:

- in the case of an existing employee/volunteer, transfer the person to another role which does not require them to work (directly and unsupervised) with people under the age of 18 years. If this is not possible, then end the appointment, subject to legal advice
 - in the case of someone applying for the position/role, not appoint them.
3. Check a person's referees (verbal or written) and interview a person about their suitability for the role and their suitability for working with children for both paid and voluntary positions.
 4. Ask people applying for (and people who currently occupy) a position that involves working with people under the age of 18 years to **sign a consent form** for a national police check. (Information on police checks and forms can be found at www.ausport.gov.au/ethics/policechecks.asp).
 5. Request a national police check from our relevant police jurisdiction for people applying for (and people who currently occupy) paid and voluntary positions that involves working with people under the age of 18 years.

In most police jurisdictions a 'Part Exclusion' check for people working with children can be requested. This check excludes irrelevant records.

If the police check indicates a relevant offence, CNSW or its affiliated clubs will:

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

If unsatisfied, then CNSW or its affiliated clubs will:

- in the case of an existing employee/volunteer, transfer the person to another role which does not require them to work (directly and unsupervised) with people under the age of 18 years. If this is not possible, then end the appointment, subject to legal advice
- in the case of a someone applying for the position/role, not appoint them.

If the person does not agree to a national police check after explaining why it is a requirement, CNSW or its affiliated clubs shall make an assessment as to whether the person may pose a risk to

or be unsuitable to work with people under the age of 18 years. If unsatisfied, CNSW or its affiliated clubs will:

- in the case of an existing employee/volunteer, transfer the person to another role which does not require them to work (directly and unsupervised) with people under the age of 18 years. If this is not possible, then end the appointment, subject to legal advice
 - in the case of a someone applying for the position/role, not appoint them.
6. Decide whether to offer the person the position (or retain the person in the position), taking into account the result of the police check and any other information CNSW or its affiliated clubs have available. Where it is not practical to complete the police check prior to employment commencing, CNSW or its affiliated clubs must still complete the check as soon as possible. CNSW or its affiliated clubs will advise the person that their ongoing employment is conditional upon the satisfactory outcome of the check.
 7. Where a national police check is obtained under this member protection policy, another organisation which is also required to screen may obtain a copy of the national police check provided that the consent of the relevant person is obtained and the national police check was performed in the immediately preceding two years.
 8. Protect the privacy of any person who is checked and the confidentiality of any information obtained through the checking process. Information collected during screening (such as a completed MPD form, police records and referee reports) will be returned to the relevant person if that person is not appointed to/will not remain in the position, or otherwise be destroyed with the consent of the person concerned.

Attachment B5: MEMBER PROTECTION DECLARATION (MPD)

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

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 offences involving sexual activity, acts of indecency, child abuse or child pornography or other crimes relating to harassment or assault.
3. I have not had any disciplinary proceedings brought against me by an employer, sporting organisation or similar body involving child abuse, sexual misconduct or harassment, acts of violence, intimidation or other forms of harassment.
4. I have never been sanctioned for an anti-doping rule violation under any anti-doping policy applicable to me.
5. I have never participated in, facilitated or encouraged any practice prohibited by the World Anti-Doping Agency Code or any other anti-doping policy applicable to me.
6. To my knowledge there is no other matter that CNSW may consider to constitute a risk to its members, employees, volunteers, athletes or reputation by engaging me.
7. I will notify the CEO of CNSW (or any other organisation(s) engaging me) immediately upon becoming aware that any of the matters set out in clauses 1 to 6 above have changed for whatever reason.

Declared in NSW..... on

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

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

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

Name:.....

Signature:.....

PART C: PROCEDURES

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

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

Attachment C1: COMPLAINTS PROCEDURE

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

Given all of the variables that can arise, CNSW 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 MPO considers that a complainant has **knowingly** made an untrue complaint or the complaint is vexatious or malicious, the matter will be referred to the CEO for appropriate action, which may include referral to the Disciplinary Tribunal. All complaints will be kept confidential and will not be disclosed to another person without the complainant's consent except if law requires disclosure or if disclosure is necessary to effectively deal with the complaint.

Step 1

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

Step 2

If:

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

talk with one of our Member Protection Officers (MPOs). A list of MPOs is available from the CNSW offices or the CNSW website (www.nsw.cycling.org.au)

The MPO will:

- take notes about your complaint (which the MPO 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 MPO, you may decide:

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

If you wish to remain anonymous, CNSW cannot assist you to resolve your complaint. We have to follow the principles of natural justice and be fair to both sides. This means that CNSW 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 CEO; 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 CEO of CNSW 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 CNSW. In these cases, the CEO may determine that the complaint does not warrant a formal resolution procedure;
- to appoint a person to investigate the complaint;
- to refer the complaint to an informal or formal mediation session;
- to refer the complaint to a hearings tribunal;
- to refer the matter to the police or other appropriate authority; and/or
- to implement any interim administrative or other arrangements that will apply until the complaint process set out in these Procedures is completed.

In making the decision(s) outlined above, the CEO 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 CEO is the appropriate person to handle the complaint they will, to the extent that these steps are necessary:

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

Step 6

If:

- a person is appointed to investigate the complaint under **Step 5**, the investigator will conduct the investigation and provide a written report to the CEO who will determine what, if any, further action to take. This action may include a direction to the investigator to make further enquiries and obtain additional information, disciplinary action in accordance with Attachment C6, and referring the complaint to an informal or a formal mediation session, a hearings tribunal and/or the police or other appropriate authority;
- the complaint is referred to an informal or a formal mediation session under **Step 5**, the mediation session will be conducted in accordance with Attachment C2 or as otherwise agreed by you and the respondent;
- the complaint is referred to a hearings tribunal under **Step 5**, the hearing will be conducted in accordance with Attachment C5;
- the complaint is referred to the police or other appropriate authority under **Step 5**, CNSW 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**, CNSW will periodically review these arrangements to ensure that they are effective.

Any costs relating to the complaint process set out in this Policy (e.g. investigation and/or mediation and/or hearings tribunal) will be met by CNSW. The respective parties will be liable for the costs of any legal and/or advocacy services they may engage.

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

The grounds for appeal and the process for appeals under this Policy are pursuant to CNSW By-Laws as set out in Part C Attachment C5.

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

Step 8

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

External procedure

There may be a range of external options available to you depending on the nature of your complaint. If you feel that you have been harassed or discriminated against, you can seek advice from the NSW equal opportunity commission without being obliged to make a formal complaint. If the commission advises you that the problem appears to be a type of harassment that comes within its jurisdiction, you may then make a decision as to whether or not to lodge a formal complaint with the commission.

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

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

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

Attachment C2: MEDIATION

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

This attachment outlines the general procedure of mediation that will be followed by CNSW.

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

- a. Write to the CEO to request that the CEO reconsider the complaint in accordance with **Step 5**; or
- b. Approach an external agency such as an anti-discrimination commission.

Attachment C3: INVESTIGATION PROCESS

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

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

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

1.1. Attachment C4: INVESTIGATION PROCEDURE - CHILD ABUSE

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

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

Step 1 - Clarify basic details of the allegation

- Any complaints, concerns or allegations of child abuse should be made or referred to the MPO or the CEO of CNSW.
- The initial response of the person that receives the complaint from the child (or person on behalf of the child) is crucial to the well-being of the child. It is important for the person receiving the information to:
 - Listen to, be supportive and do not dispute what the child says;
 - Reassure the child that what has occurred is not the fault of the child;
 - Ensure the child is safe;
 - Be honest with the child and explain that other people may need to be told in order to stop what is happening; and
 - Ensure that what the child says is quite clear but do not elicit detailed information about the abuse. You should avoid suggestive or leading questions.
- The person receiving the complaint should obtain and clarify basic details (if possible) such as:
 - Child's name, age and address;
 - Person's reason for suspecting abuse (observation, injury or other); and
 - Names and contact details of all people involved, including witnesses.

Step 2 – Report allegations of a serious or criminal nature

- Any individual or organisation to which this policy applies, should immediately report any incident of a serious or a criminal nature to the police and other appropriate authority.
- If the allegation involves a child at risk of harm, the incident should immediately be reported to the police or other appropriate government agency. You may need to report to both the police and the relevant government agency.
- The relevant State or Territory authority should be contacted for advice if there is **any** doubt about whether the complaint should be reported.
- If the child's parent/s are suspected of committing the abuse, report the allegation to the relevant government agency.

Step 3 – Protect the child

- The CEO should assess the risks and take interim action to ensure the child's/children's safety. Some options could include redeployment of the alleged offender to a non-child related position, supervision of the alleged offender or removal/suspension from their duties until the allegations are finally determined.
- The CEO should also address the support needs of the person against whom the complaint is made. Supervision of the person should ideally occur with the knowledge of the person. If stood down, it should be made clear to all parties that are aware of the incident that this does not mean the person is guilty and a proper investigation still needs to be undertaken.

Step 4 – Further clarify and investigate allegation

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

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

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

- Where possible, appoint an independent person with appropriate expertise to make contact and meet with each of the people involved to obtain details of the allegation.
- The investigator should follow the process set out in Part C Attachment C3.
- Strict confidentiality, impartiality, fairness and due process must be maintained at all times.

Step 5 – Record and analyse all information

- If an internal investigation was conducted under **Step 4**, the investigator will provide a report to the CEO.
- The decision-maker(s) will be a person or tribunal appointed by the Management Committee of CNSW pursuant to Rules 101 o. or 104 of the CNSW By-Laws, and will remain separate and at arm's length from the investigator.
- The appointed person or 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 must be given to the findings of the police and/or the government agency before making a decision on disciplinary proceedings.
- If disciplinary action is to be taken, follow the procedures outlined in Part C Attachment C6 of the policy.
- Implement any disciplinary decision recommended by the appointed person or tribunal. The action should be immediate.
- Check with the relevant state government authority to see if you need to forward a report (e.g. the NSW Commission for Children and Young People requires notification of relevant employment proceedings).
- Complete the appropriate report form in Part E of this policy. Retain the original in a secure place and forward a copy to the CEO of CNSW.

Attachment C5: HEARINGS & APPEALS TRIBUNAL PROCEDURE

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

Tribunal Formation and Notification

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

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

The respondent(s) will be allowed to participate in all CNSW activities and events, pending the decision of the Tribunal, including any available appeal process, unless the CEO believes it is warranted to exclude the respondent(s) from all or some CNSW activities and events, after considering the nature of the complaint.

6. The CEO will inform the person making the complaint (complainant) by written notification that a tribunal hearing will take place. The written notification will outline:
 - That the person has a right to appear at the tribunal hearing to support their complaint;
 - Details of the complaint, including any relevant rules or regulations they are accused of breaching (if there is more than one complaint these should be set out separately);
 - The date, time and venue of the tribunal hearing;
 - That they can make either verbal or written submissions to the Tribunal;
 - That they may arrange for witnesses to attend the Tribunal in support of their position; and
 - That legal representation will not be allowed. (Where the respondent is considered a minor, they must have a parent, guardian or support person present).
 - A copy of any information / documents that have been given to the Tribunal (eg investigation report findings) will also be provided to the complainant.
7. If the complainant believes the details of the complaint are incorrect or insufficient they should inform the CEO as soon as possible so that the respondent and the Tribunal Panel members can be properly informed of the complaint.

Tribunal Hearing Procedure

8. The following people will be allowed to attend the Tribunal Hearing:
 - The Tribunal Panel members;
 - The respondent(s);
 - The complainant;
 - Any witnesses called by the respondent;
 - Any witnesses called by the complainant;
 - Any parent / guardian or support person required to support the respondent or the complainant.
9. The Tribunal Chairperson will call the hearing to order at the designated time and determine if the respondent(s) is present.
10. If the respondent(s) is not present and the Tribunal Chairperson considers that no valid reason has been presented for their absence, the Tribunal Hearing will continue subject to the Tribunal Chairperson being satisfied that all Tribunal notification requirements have been carried out correctly.
11. If the Tribunal Chairperson considers that a valid reason for the non-attendance of the respondent(s) is presented, or the Tribunal Chairperson does not believe the Tribunal notification requirements have been carried out correctly, then the Tribunal Hearing will be rescheduled to a later date.
12. The Tribunal Chairperson will inform the CEO of the need to reschedule, and the CEO will organise for the Tribunal Hearing to be reconvened.
13. The Tribunal Chairperson will read out the complaint that is to be judged, ask the respondent(s) if they understand the complaint being made against them, and if they agree or disagree with the complaint.
14. If the person agrees with the complaint, they will be asked to provide any evidence or witnesses that should be considered by the Tribunal Panel when determining any disciplinary measures in accord with CNSW By-Laws.

15. If the person disagrees with the complaint, the complainant will be asked to describe the circumstances that lead to the complaint being made.
 - Brief notes may be referred to.
 - The complainant will be allowed to call witnesses.
 - The respondent(s) may be allowed to question the complainant and their witnesses.
16. The respondent(s) will then be asked to respond to the complaint.
 - Brief notes may be referred to.
 - The respondent will be allowed to call witnesses.
 - The complainant may be allowed to ask questions of the respondent and their witnesses.
17. Both the complainant and respondent will be allowed to be present when evidence is presented to the Tribunal. Witnesses may be asked to wait outside the Tribunal Hearing until required.
18. The Tribunal will be allowed to:
 - consider any evidence, and in any form, that it deems relevant.
 - question any person giving evidence.
 - limit the number of witnesses presented if it is agreed by all parties that they will support the person who requested them, but will not provide any new evidence.
19. Video evidence, if available, may be presented. The arrangements must be made entirely by the person/s wishing to offer this type of evidence.
20. If the Tribunal considers that at any time during the Tribunal Hearing that there is any unreasonable or intimidatory behaviour from anyone allowed to be present, the Tribunal Chairperson shall have the power to stop any further involvement of the person in the Tribunal Hearing.
21. After all of the evidence has been presented the Tribunal Panel will make its decision in private. If the Tribunal believes the complaint has been substantiated on the balance of probabilities (i.e. more probable than not), the respondent will then be given an opportunity to address the Tribunal Panel and make a submission on any disciplinary measures that may be imposed. Only those disciplinary measures outlined in the CNSW By-Laws will be considered. Any disciplinary measure imposed must be reasonable in the circumstances.
22. All decisions made by the Tribunal will be based on a majority vote.
23. The Tribunal Chairperson will announce the decision in the presence of all those involved in the hearing and will declare the hearing closed.
24. Within 48 hours, the Tribunal Chairperson will:
 - 24.1 Forward to the CEO a copy of the tribunal decision including any disciplinary measures imposed.
 - 24.2 Forward a letter to the respondent(s) reconfirming the Tribunal's decision and any disciplinary measures imposed. The letter should also outline, if allowed, the process and grounds for an appeal to be made.

Appeals Procedure

25. A complainant or a respondent(s) who is not satisfied with a decision described in **Step 23** of the Complaints Procedures can lodge one appeal to CNSW on one or more of the following bases:
 - 25.1 That a denial of natural justice has occurred; or
 - 25.2 That the disciplinary measure(s) imposed is unjust and/or unreasonable.
26. A person wanting to appeal in accordance with paragraph 25 must lodge a letter stating their intention and the basis for their appeal with the CEO within 14 days of the relevant decision. An appeal fee, as prescribed each year by the CNSW Council, shall be included with the letter of intention to appeal.

27. If the letter of appeal is not received by the CEO within the relevant time period the right of appeal will lapse. If the letter of appeal is received but the appeal fee is not received by the relevant time, the appeal shall be deemed to be withdrawn.
28. Upon receipt of the letter of appeal, the CEO must convene a special meeting of the Management Committee (or their delegated members) to review the letter of appeal and decide whether there are sufficient grounds for the appeal to proceed. The CEO may invite any witnesses to the meeting if it is believed that this may be of assistance in making an informed decision.
29. If it is considered that the letter of appeal has not shown sufficient grounds for appeal in accordance with paragraph 25, then the appeal will not proceed and the person will be notified of this decision and the reasons for this decision. Half of the appeal fee will be refunded.
30. If the appeal is considered to have sufficient grounds to proceed then the CNSW Management Committee shall appoint a new Appeals Tribunal panel to be convened to rehear the complaint. The Appeals Tribunal panel shall follow the Tribunal Formation and Notification procedures outlined above.
31. The Tribunal Hearing Procedure shall be followed for the appeal.
32. The appeal fee shall be forfeited if the appeal is dismissed. The appeal fee shall be refunded in full if the appeal is upheld.
33. The decision of the appeal Tribunal will be final.

Attachment C6: DISCIPLINARY MEASURES

Any disciplinary measure imposed by a Tribunal under this policy must:

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

Individual

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

1. A direction that the individual make a verbal and/or written apology;
2. A written warning;
3. A direction that the individual attend counselling to address their behaviour;
4. A withdrawal of any awards, placings, records, achievements bestowed in any tournaments, activities or events held or sanctioned by CNSW;
5. A demotion or transfer of the individual to another location, role or activity
6. A suspension of the individual's membership or participation or engagement in a role or activity;
7. Termination of the individual's membership with CNSW for a specified period of time or permanently;
8. A recommendation to CNSW to terminate the individual's appointment by, or engagement with CNSW;
9. In the case of a coach or official, a direction that the relevant organisation de-register the accreditation of the coach or official for a period of time or permanently;
10. Any other form of discipline that the Tribunal considers appropriate within the provisions of the CNSW By-Laws.

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

Organisations

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

1. A written warning;
2. A monetary fine;
3. A direction that any rights, privileges and benefits provided to that organisation by CNSW or other peak association be suspended for a specified period;
4. A direction that any funding granted or given to it by CNSW cease from a specified date;
5. A direction that CNSW cease to sanction events held by or under the auspices of that organisation for a specified period;
6. A recommendation to CNSW that its membership of, or affiliation with, CNSW be suspended or terminated in accordance with the relevant provisions of the CNSW Constitution; and/or
7. Any other form of discipline that the state body or peak organisation considers to be appropriate within the provisions of the CNSW Constitution and By-Laws.

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

Factors to be Consider by a Tribunal when Imposing Disciplinary Measures

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

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

PART D: CYCLING AUSTRALIA CODE OF CONDUCT

1. PURPOSE

The purpose of the Code of Conduct (Code) is to describe the type of behaviour which Cycling Australia (CA) is seeking to promote and encourage its members and supporters to adopt.

2. GOVERNANCE

The code shall be known as Cycling Australia's Code of Conduct. The Code shall govern the conduct of all persons formally associated with cycling within Australia. In particular, it shall apply to:

- Persons acting for and on behalf of CA.
- Athletes, coaches, managers and support staff of CA.
- Persons participating in CA sanctioned events.
- Officials, Commissaires and support personnel assisting or conducting CA events.
- CA appointed Delegates and employees of CA.

3. KEY PRINCIPLES

- CA wishes to operate in an environment where people show respect for others and their property. Respect is defined as consideration for another's physical and emotional well being and possessions, to ensure no damage or deprivation is caused to either.
- CA wishes to operate in an environment that is free from harassment. Harassment is defined as any action directed at an individual or group that creates a hostile, intimidating or offensive environment. (Refer to ASC Guidelines for Harassment-Free Sport).
- CA wishes to operate in a non-discriminatory environment. Respect the right, dignity and worth of every human being - within the context of the activity, treat everyone equally regardless of gender, ethnic origin or religion.
- Persons to whom this Code applies acknowledge and agree to comply with the disciplinary and grievance procedures promulgated by CA. If any disciplinary action is taken, persons directly affected shall be given the opportunity to participate in those proceedings and the right to appeal against any decision against them.

4. KEY ELEMENTS

All persons who are bound by this code shall:

- Act in a manner which is compatible with the interests of CA;
- Accord people involved in cycling with the appropriate courtesy, respect and regard for their rights and obligations;
- Treat people's property with respect and due consideration of its value;
- Show a positive commitment to CA's policies, rules, procedures, guidelines and agreements;
- Respect the law and customs of the places they visit;
- Respect the confidentiality of information which they receive in the course of fulfilling their duties;
- Uphold the standing and reputation of cycling within Australia;
- Not misuse provided funds or property belonging to another party; and
- Observe and comply with the Anti Doping Rules set out in the CA Doping Policy.

5. UNACCEPTABLE BEHAVIOUR

This list provides examples of behaviour deemed to be unsuitable and not in the best interests of the sport.

- 'Sledging' other athletes, officials or event organisers. Sledging is defined as a statement that is deemed to denigrate and/or intimidate another person, or behaviour likely to constitute emotional abuse.
- Excessive use of alcohol, acting in a way that becomes a public nuisance, or creating a public disturbance.
- Damaging another person's property or depriving them of that property.
- Sexual relations between an appointed official and a junior athlete (under the age of consent), irrespective of the wishes and desires of the athlete. In all other cases such relations are strongly discouraged.
- Any physical contact with athletes shall be appropriate to the situation and be necessary for the further development of the athlete's skill.
- The use or encouragement of the use banned substances. (The banned substance list is as outlined under CA's Anti-Doping Policy.)
- Statements which are deemed to denigrate the group that an individual is representing.
- Any type of gambling, betting or organisation of betting at any cycling event, while competing, officiating or undertaking a management role.
- Any form of harassment.

PART E: REPORTING DOCUMENTS/FORMS

TO ASSIST IN CONSISTENCY AND ACCURACY IN FOLLOWING PROCEDURE AND REPORTING ON THE ISSUES COVERED BY CNSW'S MEMBER PROTECTION POLICY, THE FOLLOWING DOCUMENTS ARE TO BE USED:

- E1 CONFIDENTIAL RECORD OF INFORMAL COMPLAINT** – TO BE USED BY MPO'S OR OTHERS WHO RECEIVE A COMPLAINT OR ALLEGATION

- E2 CONFIDENTIAL RECORD OF FORMAL COMPLAINT** – TO BE USED WHEN A FORMAL COMPLAINT IS RECEIVED BY CNSW

- E3 CONFIDENTIAL RECORD OF CHILD ABUSE ALLEGATION** – TO BE USED BY MPO'S OR OTHERS WHO RECEIVE COMPLAINTS/ALLEGATIONS OF CHILD ABUSE

- E4 RECORD OF MEDIATION** – TO BE USED BY THOSE WHO CONDUCT A MEDIATION

- E5 RECORD OF TRIBUNAL DECISION**

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

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

<p>Nature of complaint (category/basis/grounds)</p> <p>Can tick more than one box</p>	<p><input type="checkbox"/> Harassment or <input type="checkbox"/> Discrimination</p> <p><input type="checkbox"/> Sexual/sexist <input type="checkbox"/> Selection dispute</p> <p><input type="checkbox"/> Sexuality <input type="checkbox"/> Personality clash</p> <p><input type="checkbox"/> Race <input type="checkbox"/> Bullying</p> <p><input type="checkbox"/> Religion <input type="checkbox"/> Verbal abuse</p> <p><input type="checkbox"/> Pregnancy <input type="checkbox"/> Physical abuse</p> <p><input type="checkbox"/> Disability <input type="checkbox"/> Victimization</p> <p><input type="checkbox"/> Child Abuse</p> <p><input type="checkbox"/> Other</p>
<p>Feelings expressed by complainant</p> <p>(completing this may help to separate emotional content from facts)</p>	
<p>What they want to happen to fix issue</p>	
<p>What information I provided</p>	
<p>What they are going to do now</p>	

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

<p>Nature of complaint (basis/grounds/category)</p> <p>Can tick more than one box</p>	<p><input type="checkbox"/> Harassment or <input type="checkbox"/> Discrimination</p> <p><input type="checkbox"/> Sexual/sexist <input type="checkbox"/> Selection dispute</p> <p><input type="checkbox"/> Sexuality <input type="checkbox"/> Personality clash</p> <p><input type="checkbox"/> Race <input type="checkbox"/> Bullying</p> <p><input type="checkbox"/> Religion <input type="checkbox"/> Verbal abuse</p> <p><input type="checkbox"/> Pregnancy <input type="checkbox"/> Physical abuse</p> <p><input type="checkbox"/> Disability <input type="checkbox"/> Victimisation</p> <p><input type="checkbox"/> Child Abuse</p> <p><input type="checkbox"/> Other</p>
<p>Methods (if any) of attempted informal resolution</p>	
<p>Support person (if any)</p>	
<p>Formal resolution procedures followed (outline)</p>	
<p>If investigated: Finding -</p>	
<p>If went to hearing tribunal:</p> <p>Decision -</p> <p>Action recommended -</p>	
<p>If mediated:</p> <p>Date of mediation -</p> <p>Were both parties present -</p> <p>Terms of Agreement -</p> <p>Any other action taken -</p>	

Police contacted	Who: When: Advice provided:
Government agency contacted	Who: When: Advice provided:
CEO contacted	Who: When:
Police and/or government agency investigation	Finding:
Internal investigation (if any)	Finding:
Action taken	
Completed by	Name: Position in CNSW: Signature: / /
Signed by	Complainant (if not a child)

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

Attachment E4: RECORD OF MEDIATION

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

Signed by:	
Complainant (signature)	
Respondent (signature)	

The report will be forwarded to the CEO who shall provide copies to the relevant parties

