



***RUGBY***  
***UNION SA***

**RUGBY UNION SOUTH AUSTRALIA**  
**(ACN 091 684 409)**

**STATE MEMBER PROTECTION POLICY**

**VERSION 2.0**  
**JUNE 2021**

SOUTH AUSTRALIAN RUGBY UNION LIMITED  
WEST BEACH PARKS ADMINISTRATION BUILDING, MILITARY ROAD, WEST BEACH, SA, 5024

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## **STATEMENT FROM GENERAL MANAGER**

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This Member Protection Policy aims to ensure Rugby Union South Australia's (RUSA) core values, good reputation and positive behaviours and attitudes are maintained. It reiterates RUSA's commitment to ensuring every person involved in rugby is treated with respect and dignity, and is safe and protected from abuse. Through this Policy, RUSA aims to ensure that everyone involved in Rugby is aware of their legal and ethical rights and responsibilities.

This Policy also provides the procedure that supports RUSA's commitment to eliminating discrimination, harassment, child abuse and other forms of inappropriate behavior from rugby.

RUSA is committed to providing an environment safe for children, which is free from harassment and abuse for everyone, and promotes respectful and positive behavior and values. This Policy, along with Rugby Australia's Code of Conduct, form the basis of appropriate and ethical conduct which everyone involved in rugby must abide by.

This Member Protection Policy is an essential part of RUSA's proactive and preventative approach to tackling inappropriate behavior.



Carl Jones  
General Manager  
Rugby Union South Australia

## **REVIEW HISTORY OF RUGBY UNION SA MEMBER PROTECTION POLICY**

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<b><i>Version</i></b>	<b><i>Date reviewed</i></b>	<b><i>Contents</i></b>	<b><i>Date endorsed</i></b>
<i>1.0</i>	<i>January 2018</i>	<i>New Policy</i>	<i>29 January 2018</i>
<i>1.1</i>	<i>June 2021</i>	<i>Updated terminology</i>	<i>25 June 2021</i>

## **PART A: NATIONAL MEMBER PROTECTION POLICY**

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### **1. INTRODUCTION**

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Passion, integrity, discipline, respect & teamwork form Rugby Union South Australia's (**RUSA**) core values

### **2. PURPOSE OF THIS POLICY**

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

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

This policy has been endorsed by Rugby Union South Australia's Board and has been incorporated into our rules and regulations. The policy starts on 1<sup>st</sup> January, 2018 and will operate until replaced.

The current policy and its attachments can be obtained from our website at:

<https://sa.rugby/competitions/seniors/rugby-administration>

### **3. WHO IS BOUND BY THIS POLICY**

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This policy should apply to as many persons as possible who are involved with the activities of RUSA, whether they are in a paid or unpaid/voluntary capacity and including:

- 3.1 persons appointed or elected to RUSA boards, committees and sub-committees
- 3.2 employees of RUSA;
- 3.3 members of the RUSA Executive;
- 3.4 support personnel, including managers, physiotherapists, sport trainers and others;
- 3.5 coaches and assistant coaches;
- 3.6 players;
- 3.7 referees and other match officials;
- 3.8 members, including life members of RUSA;
- 3.9 athletes, coaches, officials and other personnel participating in events and activities, including state representative programs and training sessions, held or sanctioned by RUSA

This policy will continue to apply to a person even after he or she has stopped their association or employment with RUSA, if disciplinary action against that person has begun.

It is also intended this policy will apply to:

- 3.10 member associations
- 3.11 affiliated clubs and associated organisations.
- 3.12 any other associations, such as Referees Association, etc.

## **4. ORGANISATIONAL RESPONSIBILITIES**

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RUSA and its members must:

- 4.1 adopt, implement and comply with this policy
- 4.2 ensure that this policy is enforceable
- 4.3 publish, distribute and promote this policy and the consequences of any breaches of the policy
- 4.4 promote and model appropriate standards of behaviour at all times
- 4.5 deal with any complaints made under this policy in an appropriate manner
- 4.6 deal with any breaches of this policy in an appropriate manner
- 4.7 recognise and enforce any penalty imposed under this policy
- 4.8 ensure that a copy of this policy is available or accessible to all people and organisations to whom this policy applies
- 4.9 use appropriately trained people to receive and manage complaints and allegations of inappropriate behavior e.g., Member Protection Information Officers
- 4.10 monitor and review this policy at least annually.

## **5. INDIVIDUAL RESPONSIBILITIES**

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Individuals bound by this policy must:

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

## **6. POSITION STATEMENTS**

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### **6.1 CHILD PROTECTION**

RUSA is committed to the safety and well-being of all children and young people who participate in our sport or access our services. We support the rights of the child and will act at all times to ensure that a child-safe environment is maintained.

We acknowledge the valuable contribution made by our staff, members and volunteers and we encourage their active participation in providing a safe, fair and inclusive environment for all participants.

#### **6.1.1 IDENTIFYING AND ANALYSING RISKS OF HARM**

RUSA will develop and implement a risk management strategy which will include a review of our existing child protection practices, to determine how child safe our organisation is and to identify any additional steps we can take to minimise and prevent the risk of harm to children because of the actions of an employee, volunteer or another person.

#### **6.1.2 DEVELOPING CODES OF CONDUCT FOR ADULTS AND CHILDREN**

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

These codes will clearly describe professional boundaries, ethical behaviour and unacceptable behavior. (Refer to the attachments in Part B of this policy)

### **6.1.3 CHOOSING SUITABLE EMPLOYEES AND VOLUNTEERS**

RUSA will take all reasonable steps to ensure that our organisation engages suitable and appropriate people to work with children, especially those in positions that involve contact with children. This will include using a range of screening measures.

RUSA will ensure that Working with Children Checks are conducted for all employees and volunteers working with children in accordance with the *Child Safety (Prohibited Persons) Act 2016*.

If a criminal history report is also obtained as part of their screening process, RUSA will handle this information confidentially and in accordance with the relevant legal requirements.

### **6.1.4 SUPPORT, TRAIN, SUPERVISE AND ENHANCE PERFORMANCE**

RUSA will ensure that all our employees and volunteers who work with children have ongoing supervision, support and training. Our goal is to develop their skills and capacity and to enhance their performance so we can maintain a child safe environment in our sport. *The child safe officer role will be established to support this statement and the appointment of the person to this role will be reviewed annually.*

### **6.1.5 EMPOWER AND PROMOTE THE PARTICIPATION OF CHILDREN**

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

### **6.1.6 REPORT AND RESPOND APPROPRIATELY TO A SUSPICION OF A CHILD AT RISK OF HARM**

RUSA will ensure that all our employees and volunteers are able to identify and respond appropriately to children at risk of harm and that they are aware of their responsibilities under state laws to make a report if they suspect on reasonable grounds that a child is, or may be, at risk. (Refer to the attachments in Part E of this policy)

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

### **6.1.7 MANAGE APPROPRIATELY ANY ALLEGATION OF MISCONDUCT TOWARDS CHILDREN**

We will treat any allegations of child abuse or neglect towards children participating in activities associated with our organisation responsibly and sensitively. This will include providing support for the alleged victim and their family and ensuring natural justice is provided for the alleged offender.

## **6.2 TAKING IMAGES OF CHILDREN**

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

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

When using a photo of a child, we will not name or identify the child or publish personal information, such as residential address, email address or telephone number, without the consent of the child's parent/guardian. We will not provide information about a child's hobbies, interests, school or the like.

We will only use images of children that are relevant to our sport and we will ensure that they are suitably clothed in a manner that promotes participation in the sport, so far as reasonably practicable. We will seek permission from the parents/guardians of the children before using the images. We require our member associations and clubs to do likewise.

### **6.3 ANTI-DISCRIMINATION AND HARASSMENT**

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

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

#### **6.3.1 DISCRIMINATION**

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

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

Discrimination can be either direct or indirect.

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

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

#### **6.3.2 HARASSMENT**

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

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

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

#### **6.3.3 PROHIBITION AGAINST DISCRIMINATION AND HARASSMENT**

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

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

## 6.4 INTIMATE RELATIONSHIPS

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

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

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

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

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

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

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

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

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

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

## 6.5 PREGNANCY

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

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

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

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

If a pregnant woman believes she is being, or has been, harassed or discriminated against by another person or organisation bound by this Policy, she may make a complaint. (Refer to the attachments in Part D of this policy.)

## 6.6 GENDER IDENTITY

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

### 6.6.1 GENDER IDENTITY DISCRIMINATION AND HARASSMENT

RUSA is committed to providing a safe, fair and inclusive sporting environment where all people can contribute and participate. All persons, regardless of gender identity, are entitled to be treated fairly and with dignity and respect at all times. We will not tolerate any unlawful harassment or discrimination of a person because of their gender identity.

This includes discrimination or harassment of a person who is transgender or gender diverse, who is assumed to be transgender or gender diverse or has an association with someone who has or is assumed to be transgender or gender diverse.

Transgender is an umbrella term that refers to a person whose gender identity is different to their physical sex as recorded at birth. A person whose birth certificate originally described them as female, who now identifies as a man, may use the labels 'trans', 'trans man' or 'man'. Similarly, a person whose birth certificate originally described them as male, who now identifies as a woman, may use the labels 'trans', 'trans woman' or 'woman'.

Gender affirmation (or transition) refers to the social, medical or legal steps that a transgender person takes to affirm their gender identity.

Gender affirmation may or may not involve medical treatment, including surgeries or hormone therapy. People can affirm their gender as children, adolescents or as adults and each person's gender affirmation is different.

- **Social affirmation** is the process by which a person changes their gender expression to better match their gender identity. This may include changing their name, pronouns, and appearance.

- **Medical affirmation** is the process by which a person changes their physical sex characteristics to align with their gender identity. This may include hormone therapy, surgery or both.
- **Legal affirmation** is the process by which a person changes their identity documents, name, or both, to reflect their gender identity. This may include changing their gender marker on a passport or birth certificate, or changing their name on a driver's licence or bank card.

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

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

### **6.6.2 PARTICIPATION IN SPORT**

RUSA recognizes that excluding people from participating in sporting events and activities because of their gender identity may have significant implications for their health, wellbeing and involvement in community life. We are committed to supporting participation in our sport on the basis of the gender with which a person identifies.

If issues of performance advantage arise, we will consider whether the established discrimination exceptions for participation in sport are relevant in the circumstances. Discrimination is unlawful unless an exception applies.

Drug testing procedures and prohibitions also apply to people who identify as transgender. A person receiving treatment involving a Prohibited Substance or Method, as described on the World Anti-Doping Agency's Prohibited List, should apply for a standard Therapeutic Use Exemption.

### **6.6.3. INTERSEX STATUS**

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

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

## **6.7 RESPONSIBLE SERVICE AND CONSUMPTION OF ALCOHOL**

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

In general, our policy is that:

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

Further guidance on developing an Alcohol Policy is available at:

<https://www.playbytherules.net.au/resources/templates>

## **6.8 SMOKE-FREE ENVIRONMENT**

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

In general, our policy is that:

- no smoking shall occur at or near sporting events involving children and young people under the age of 18. This policy shall apply to coaches, players, trainers, officials and volunteers;
- social events shall be smoke-free, with smoking permitted at designated outdoor smoking areas; and
- coaches, officials, trainers, volunteers and players will refrain from smoking while they are involved in an official capacity in our sport, both on and off the field.

## **6.9 CYBER-BULLYING**

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

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

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

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

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

Bullying includes cyber-bullying which occurs through the use of technology. New technologies and communication tools, such as smart phones and social networking websites, have greatly increased the potential for people to be bullied through unwanted and inappropriate comments. RUSA will not tolerate abusive, discriminatory, intimidating or offensive statements being made online. Frustration at a referee, teammate, coach or sporting body should never be communicated on social networking websites. These issues should instead be addressed – in a written or verbal statement or a complaint – to the relevant controlling club, league or peak sporting body.

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

## **6.10 SOCIAL NETWORKING**

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

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

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

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

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

Further guidance on developing a Communications Policy is available at:

<https://www.playbytherules.net.au/resources/templates>

## 7. COMPLAINTS PROCEDURE

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### 7.1 HANDLING COMPLAINTS

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

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

In the first instance, complaints should be reported to the Member Protection Information Officer (*Rose Jackson, Member Protection Information Officer, Rugby Union SA*)

If a complaint relates to behaviour or an incident that occurred at the:

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

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

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

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

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

### 7.2 IMPROPER COMPLAINTS AND VICTIMISATION

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

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

If at any point in the complaint handling process the Member Protection Information Officer considers that a complainant has knowingly made an untrue complaint, or the complaint is malicious or inappropriately intended to cause distress to the respondent, the matter may be

referred, in writing, to the Code of Conduct Tribunal for review and appropriate action, including possible disciplinary action against the complainant.

### **7.3 MEDIATION**

RUSA aims to resolve complaints quickly and fairly. Complaints may be resolved by agreement between the people involved with no need for disciplinary action.

Mediation is a confidential process that allows those involved in a complaint to discuss the issues or incident in question and come up with mutually agreed solutions. It may occur before or after the investigation of a complaint.

If a complainant wishes to resolve the complaint with the help of a mediator, the Member Protection Information Officer will, in consultation with the complainant, arrange for an independent mediator where possible. We will allow lawyers to participate in the mediation process.

More information on the mediation process is outlined in Attachment [D2].

### **7.4 TRIBUNALS**

In accordance with RUSA rules a Tribunal may be convened to hear a proceeding:

- referred to it by the CEO or another designated official
- referred to it or escalated by a state association because of the serious nature of the complaint, because it was unable to be resolved at the club level or because the policy of the state association directs it to be
- for an alleged breach of this policy.

Our Tribunal procedure is outlined in Attachment [D4].

A respondent may lodge an appeal to the Appeal Tribunal in respect of a Tribunal decision. The decision of the Appeal Tribunal is final and binding on the people involved. Our appeals process is outlined in Attachment [D4].

Every organization bound by this policy will recognise and enforce any decision of a Tribunal or Appeal Tribunal under this policy.

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

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

- 8.1 breaching the codes of behaviour (see Part B of this policy);
- 8.2 bringing the sport and/or RUSA into disrepute, or acting in a manner likely to bring the sport and/or the organization into disrepute;
- 8.3 failing to follow RUSA policies (including this policy) and our procedures for the protection, safety and well-being of children;
- 8.4 discriminating against, harassing or bullying (including cyber-bullying) any person;
- 8.5 victimising another person for making or supporting a complaint;
- 8.6 engaging in an inappropriate intimate relationship with a person that he or she supervises, or has influence, authority or power over;
- 8.7 verbally or physically assaulting another person, intimidating another person or creating a hostile environment within the sport;
- 8.8 disclosing to any unauthorised person or organization any RUSA information that is of a private, confidential or privileged nature;
- 8.9 making a complaint that they know to be untrue, vexatious, malicious or improper;
- 8.10 failing to comply with a penalty imposed after a finding that the individual or organisation has breached this policy; and
- 8.11 failing to comply with a direction given to the individual or organisation as part of a disciplinary process.

## **9. DISCIPLINARY MEASURES**

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RUSA may impose disciplinary measures on an individual or organisation for a breach of this policy.

Any disciplinary measure imposed will be:

- fair and reasonable;
- applied consistently with any contractual and employment rules and requirements;
- be based on the evidence and information presented and the seriousness of the breach; and
- be determined in accordance with our constituent documents, by-laws, this policy and/or the rules of the sport.

### **9.1 INDIVIDUAL**

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

- a direction that the individual makes a verbal and/or written apology;
- a written warning;
- a direction that the individual attend counselling to address their behaviour;
- a withdrawal of any awards, scholarships, placings, records, achievements bestowed in any tournaments, activities or events held or sanctioned by RUSA;
- a suspension of the individual's participation or engagement in a role or activity;
- termination of the individual's membership, appointment or engagement;
- a recommendation that RUSA terminate the individual's membership, appointment or engagement;
- in the case of a coach or official, a direction that the relevant organisation de-register the accreditation of the coach or official for a period of time or permanently;
- a fine;
- any other form of discipline that RUSA considers appropriate.

### **9.2 ORGANISATION**

If a finding is made that a RUSA member or affiliated organisation has breached its own or this Member Protection Policy, one or more of the following forms of discipline may be imposed by the Code of Conduct Tribunal.

- a written warning;
- a fine;
- a direction that any rights, privileges and benefits provided to that organisation by the national body or other peak association be suspended for a specified period;
- a direction that any funding granted or given to it by RUSA cease from a specified date;
- a direction that RUSA cease to sanction events held by or under the auspices of that organisation;
- any other form of discipline that the national body or peak organisation considers reasonable and appropriate.

### **9.3 FACTORS TO CONSIDER**

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

- the nature and seriousness of the breach
- if the person knew, or should have known, that the behaviour was a breach of the policy
- the person's level of contrition
- the effect of the proposed disciplinary measures on the person, including any personal, professional or financial consequences
- if there have been any relevant prior warnings or disciplinary action
- the ability to enforce disciplinary measures if the person is a parent or spectator (even if they are bound by the policy)

- any other mitigating circumstances.

## 10. DICTIONARY OF TERMS

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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. Further detail or definitions that are specific to different states and territories can be sourced from the relevant child protection authorities or equal opportunity and anti-discrimination commissions.

**Abuse** is the violation of an individual's human or civil rights through the act or actions of another person or persons. Types of abuse include physical abuse, psychological or emotional abuse, sexual abuse, constraints and restrictive practices, financial abuse, legal or civil abuse and systemic abuse.

**Affiliated club** means

- Adelaide University Rugby Union Football Club Inc.;
- Barossa Rams Rugby Union Football Club Inc.;
- Brighton Rugby Union Football Club Inc.;
- Burnside Rugby Union Football Club Inc.;
- Elizabeth Rugby Union Football Club Inc.;
- North Torrens Rugby Union Football Club Inc.;
- Old Collegians Rugby Football Club Inc.;
- Onkaparinga Rugby Union Football Club Inc.;
- Port Adelaide Rugby Union Community & Sports Club Inc.;
- Southern Suburbs Rugby Union Football Club Inc.;
- Woodville Rugby Union Football Club Inc.;
- South Australian Schools Rugby Union Inc.;
- South Australian Rugby Union Referees Association Inc.;

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

**Child abuse** involves conduct which puts a child at risk of harm and may include:

- **physical abuse**, which occurs when a child has suffered, or is at risk of suffering, non-accidental physical trauma or injury. This may include, but is not limited to, hitting, shaking or other physical harm; giving a child alcohol or drugs; or training that exceeds the child's development or maturity.
- **sexual abuse**, which occurs when an adult, other child, or adolescent uses their power or authority to involve a child in a sexual activity or 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**, which occurs when a child's social, emotional, cognitive or intellectual development is impaired or threatened. Emotional abuse can include, but is not limited to, emotional deprivation due to persistent rejection or criticism, hostility, teasing/bullying, humiliation, taunting, sarcasm, yelling, name-calling or placing unrealistic expectations on a child.
- **neglect**, which occurs when a child's basic necessities of life are not met and their health and development are affected. Basic needs include food, water, shelter, adequate clothing, personal hygiene, timely provision of medical treatment and adequate supervision.

**Child Safe Officer** means the person appointed by the club to assist with maintaining a child safe environment. Training is available through Sport SA.

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

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

**Complaint handler/manager** means the person appointed under this policy to investigate a complaint. Online training for complaint handlers can be accessed through [www.playbytherules.net.au](http://www.playbytherules.net.au)

**Discrimination** occurs when someone is treated (or is proposed to be treated) unfairly or less favourably than another person in the same or similar circumstances because of one of the personal characteristics covered by anti-discrimination laws. This is known as direct discrimination. Indirect discrimination occurs when there is (or is proposed) an unreasonable requirement, condition or practice that seems to treat everyone equally, but which has or is likely to have the effect of disadvantaging persons with a personal characteristic covered by anti-discrimination laws.

In Australia, it is against the law to discriminate against someone because of:

- age
- sex or gender
- gender identity
- intersex status
- race, colour, descent, national or ethnic origin, nationality, ethno-religious origin, immigration
- disability, mental and physical impairment
- family/carer responsibilities, status as a parent or carer
- marital status
- pregnancy, potential pregnancy, breastfeeding
- sexual orientation and gender identity
- physical features
- irrelevant medical record
- irrelevant criminal record, spent convictions
- political beliefs or activities
- religion, religious beliefs or activities
- national extraction or social origin
- lawful sexual activity
- profession, trade, occupation or calling
- member of association or organisation of employees or employers, industrial activity, trade union activity
- defence service
- personal association with someone who has, or is assumed to have, any of the above characteristics

Examples of discrimination are available on the Play by the Rules website:  
[www.playbytherules.net.au/legal-stuff/discrimination](http://www.playbytherules.net.au/legal-stuff/discrimination)

Some exceptions to state, territory and federal anti-discrimination law apply, including exceptions for sporting activities, such as:

- holding a competitive sporting activity for a specific age or age group (e.g., only those who are under the age of 15 years);
- excluding people on the basis of their sex and/or gender identity status from participation in a competitive sporting activity where the strength, stamina or physique of competitors is relevant to the specific activity (note that this does not apply to activity by children who are under the age of 12 years); and
- not selecting a participant if the person's disability means he or she is not reasonably capable of performing the actions reasonably required for that particular sporting activity.

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

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

**Harassment** is any type of unwelcome behaviour which has the effect of offending, humiliating or intimidating the person harassed. Unlawful harassment can be based on any of the personal

characteristics covered by anti-discrimination law, such as a person's race, sex, pregnancy, marital status or sexual orientation (see the list under "Discrimination").

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

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

**Member** means voting Member, an Affiliated Member or a Life Member

**Member Protection Information Officer** means a person appointed by RUSA to be a point of contact for a person reporting an issue or a complaint under, or a breach of, this policy. Persons nominated by RUSA will undertake training through the Rugby Australia Learning Centre and possible face to face training with Sport SA.

**Procedural fairness** requires that:

- the respondent knows the full details of what is being said against him or her and they have the opportunity to respond;
- no person may judge their own case; and
- the decision-maker(s) must be unbiased, fair and just.

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

**Respondent** means the person whose behaviour is the subject of the complaint.

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

**RUSA** means Rugby Union SA

**Sexual harassment** means unwelcome behaviour of a sexual nature which could reasonably be expected to make a person feel humiliated, intimidated or offended. Sexual harassment can take many different forms and may include unwelcome physical contact, verbal comments, jokes, propositions, displays of pornographic or offensive material or other behaviour that creates a sexually hostile environment. Sexual harassment does not have to be intentional.

**Sexual offence** means a criminal offence involving sexual activity or acts of indecency. Because of differences under state and territory laws, this can include but is not limited to:

- rape
- indecent assault
- sexual assault
- assault with intent to commit sexual acts
- incest
- sexual penetration of child under the age of 16 years
- indecent act with child under the age of 16 years
- sexual relationship with child under the age of 16 years
- 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 years
- bestiality
- soliciting a child under the age of 16 years to take part in an act of sexual penetration, or an indecent act

- promoting or engaging in acts of child prostitution
- obtaining benefits from child prostitution
- possession of child pornography
- publishing child pornography and indecent articles.

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

**Transgender** 'Transgender' is an umbrella term that refers to a person whose gender identity is different to their physical sex as recorded at birth. Transitioning refers to the process where a transgender person commences living as a member of another sex. This is sometimes referred to as the person 'affirming' their gender because transitioning means they start living in what they identify as their true gender. For people who are transitioning/affirming their gender, having their identity fully recognised in all areas of life is a crucial part of the experience of living as their affirmed gender.

**Victimisation** means treating someone unfairly or unfavorably, or threatening to do so, because that person has, or intends to, pursue their right to make any complaint, including a complaint under government legislation (e.g., anti-discrimination legislation) or under this policy, or for supporting another person to make complaint.

**Vilification** means behaviour that occurs in public which incites hatred towards, serious contempt for, or revulsion or severe ridicule of a person or group of people because that person or persons have a particular personal characteristic. Anti-discrimination laws in Australia make it unlawful to vilify a person or group of persons on the basis of race, religion, homosexuality, transgender status and HIV/AIDS status.

**WWC** means Working with Children check

## **PART B: CODES OF BEHAVIOUR**

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We seek to provide a safe, fair and inclusive environment for everyone involved in our organisation and in our sport.

To achieve this, we require certain standards of behavior by players/athletes, coaches, officials, administrators, parents/guardians (of child participants) and spectators.

Our codes of behaviour are underpinned by the following core values.

- To act within the rules and spirit of our sport.
- To display respect and courtesy towards everyone involved in our sport and prevent discrimination and harassment.
- To prioritise the safety and well-being of children and young people involved in our sport.
- To encourage and support opportunities for participation in all aspects of our sport.

### **ATTACHMENTS**

RUGBY AUSTRALIA'S CODE OF CONDUCT GUIDELINES

## **PART C: EMPLOYMENT SCREENING / WORKING WITH CHILDREN CHECK REQUIREMENTS**

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We are committed to providing a safe environment for children. As part of this, we will recruit staff and volunteers who do not pose a risk to children.

Employment screening and Working with Children Checks can involve criminal history checks, signed declarations, referee checks and other appropriate checks that assess a person's suitability to work with children and young people.

Working with Children Check laws are currently in place in New South Wales, Queensland, Western Australia, Victoria, the Northern Territory, the Australian Capital Territory, Tasmania and South Australia.

Rugby Union South Australia, including our state associations and clubs, will meet the requirements of the relevant state or territory Working with Children Check laws.

Individuals travelling with children and young people to another state or territory in a work-related capacity must comply with the screening requirements of that particular state or territory.

### **ATTACHMENTS**

ATTACHMENT C1: Member Protection Declaration

ATTACHMENT C2: Working with Children Check requirements

ATTACHMENT C3: National Working with Children Check requirements

## **PART D: COMPLAINT HANDLING PROCEDURES**

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We will deal with all complaints in a fair, timely and transparent manner. All complaints will be treated seriously.

We will provide individuals with an informal and informal process to resolve the matter, along with access to an external complaint handling body, based on the nature of the complaint and our rules and regulations.

We also provide an appeals process for those matters.

We will maintain confidentiality where possible and as provided in this policy and seek to ensure that no one is victimised for making, supporting or providing information about a complaint.

### **ATTACHMENTS**

ATTACHMENT D1: Complaints procedure

ATTACHMENT D2. Mediation

ATTACHMENT D3. Investigation procedure

ATTACHMENT D4. Code of Conduct Tribunal procedure

ATTACHMENT D5: Complaint Flow Chart (Play by the Rules)

## **PART E: REPORTING REQUIREMENTS AND DOCUMENTS/FORMS**

We will ensure that all the complaints we receive, both formal and informal, are properly documented. This includes recording how the complaint was resolved and the outcome of the complaint.

This information, and any additional records and notes, will be treated confidentially (subject to disclosure required by law or permitted under this policy) and stored in a secure place.

We will treat any allegation of child abuse or neglect promptly, seriously and with a high degree of sensitivity.

We will ensure that everyone who works with our organisation in a paid or unpaid capacity understands how to appropriately receive and record allegations of child abuse and neglect and how to report those allegations to the relevant authorities in their state or territory.

### **ATTACHMENTS**

ATTACHMENT E1: Record of informal complaint

ATTACHMENT E2: Record of formal complaint

ATTACHMENT E3: Handling an allegation of child abuse

ATTACHMENT E4: Confidential record of child abuse allegation

ATTACHMENT E5: Reporting child abuse and neglect

**ATTACHMENT C1:  
MEMBER PROTECTION DECLARATION**

Rugby Union South Australia has a duty of care to all those associated with our organisation and to the individuals and organisations to whom this policy applies. It is a requirement of our national Member Protection Policy that we check the background of each person who works, coaches or has regular unsupervised contact with children and young 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 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 Australian Sports Anti-Doping Authority (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 Rugby Union South Australia may consider to constitute a risk to its members, employees, volunteers, athletes or reputation by engaging me.
7. I will notify the President of the Board immediately upon becoming aware that any matter set out above has changed.

Declared in the state/territory of .....

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

**Consent of parent/guardian (on behalf 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: .....

## **ATTACHMENT C2: EMPLOYMENT SCREENINGS**

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Employment screenings support a child-safe environment and assist to protect children and young people involved in our sport from harm.

Employment screening can involve:

- criminal history checks;
- signed declarations;
- referee checks; and
- relevant background checks to assess a person's suitability to work with children and young people, such as a Working with Children Check.

RUSA requires all persons who are engaged in a "prescribed position" to undergo a Working with Children Check according to the South Australian *Child Safety (Prohibited Persons) Act 2016*. This assessment must be completed every five (5) years.

A person performs a prescribed position if they:

- are in paid or volunteering roles where it is reasonably foreseeable that they will work with children

### **Working with Children Checks**

In South Australia, a Working with Children Check assesses the suitability of people to work with children and young people and this includes:

- a national criminal history check
- information from South Australian government databases, such as SA child protection records from Department for Child Protection and Care Concern investigations into the welfare of children in foster or state care
- publicly available information from professional registration bodies relating to persons disciplined or precluded from working with children or vulnerable people
- information from South Australian police, courts, and prosecuting authorities including information about charges for offences alleged to have been committed (regardless of the outcome of those charges)
- expanded criminal history information from other Australian police jurisdictions, and
- any declarations made by the applicant in response to questions in the 'declaration' section of their screening application form.

Applications are made through the Department of Human Services.

<https://screening.sa.gov.au/home>

## **ATTACHMENT C3: NATIONAL WORKING WITH CHILDREN CHECK REQUIREMENTS**

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Working with Children Check requirements vary across Australia. [Information](#) for each state and territory are available on the Play by the Rules website: [www.playbytherules.net](http://www.playbytherules.net)

It is important to remember that when travelling to other states or territories, representatives of sporting organisations must comply with the legislative requirements of that particular state or territory.

In certain jurisdictions, temporary, time limited exemptions from working with children checks may be available for interstate visitors with a Working with Children Check in their home state.

The laws providing interstate exemptions are not consistent across Australia.

If an employee or volunteer for your organisation is travelling interstate to do work that would normally require a working with children check, you will need to check the relevant requirements of that state or territory.

### **Interstate visitors to South Australia working with children**

A person who is a resident of another State or Territory who will be engaged in child-related work while in South Australia for an organised event must be able to show evidence that they are not prohibited from working with children under their home state's Working with Children Check scheme.

If the person will be undertaking child-related work in South Australia in excess of 10 consecutive days they must apply for a Working with Children Check in this State.

## ATTACHMENT D1: COMPLAINTS PROCEDURE

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RUSA is committed to supporting people associated with our sport to make and resolve any complaints they may have in a fair, timely and effective way.

**We will endeavour to deal with complaints on a confidential basis.** We will not provide information about the complaint to another person without the complainant's consent, except if the law requires us disclose this information or it is necessary to properly deal with the complaint. To ensure fairness for everyone involved, we will provide the full details of the complaint to the person or people against whom the complaint has been made and ask for their response. As a result, it may be difficult for us to resolve complaints made anonymously.

We will provide **informal and formal procedures** to deal with complaints. Individuals and organisations can also make **complaints to external organisations** under anti-discrimination, child protection and other relevant laws.

### INFORMAL APPROACH

#### **Step 1: Talk with the other person** (if safe, reasonable and appropriate)

If you feel confident and comfortable to do so, you can approach the other person to discuss the issues and try and resolve the problem directly.

#### **Step 2: Contact a Member Protection Information Officer**

We encourage you to talk with one of our Member Protection Information Officers (MPIOs) if:

- step 1 (above) is not appropriate;
- you are not sure how to handle the problem by yourself;
- you want to talk confidentially with someone and find out what options are available to address your concern; or
- the concern continues after you approached the other person.

The names and contact details for our MPIOs are available at <https://sa.rugby/competitions/seniors/rugby-administration>

The MPIO will:

- ask how you would like your concern to be resolved and if you need support
- seek to provide different options for you to address your concern
- act as a support person, if you wish
- refer you to an appropriate person (e.g. a mediator) to help you address your concern, if appropriate
- inform the relevant government authorities and/or police, if required by law to do so
- where possible and appropriate, maintain confidentiality.

#### **Step 3: Decide how to address your concern**

After talking with the MPIO, you may decide:

- there is no problem;
- the problem is minor, and you do not wish to take the matter forward;
- to try and resolve the problem yourself, with or without a support person;
- to resolve the problem with the help of someone impartial, such as a mediator; or
- to resolve the matter through a formal process.

## FORMAL APPROACH

### Step 4: Making a formal complaint

If it is not possible or appropriate to resolve your complaint through an informal process, you may:

- make a formal complaint in writing to the CEO, or
- approach a relevant external agency, such as an anti-discrimination or equal opportunity commission, for advice and assistance.

After receiving a formal complaint, and based on the material you provide, the CEO will decide whether:

- he or she is the most appropriate person to receive and handle the complaint;
- the nature and seriousness of the complaint requires a formal resolution procedure;
- to refer the complaint to **mediation**;
- to appoint a person to **investigate** the complaint;
- to refer the complaint to a **tribunal hearing**;
- to refer the matter to the **police or other appropriate authority**; and/or
- to implement any interim arrangements that will apply until the complaint process is completed.

In dealing with your formal complaint, the CEO will consider:

- whether he or she has had any personal involvement in the circumstances and if so, whether it is appropriate someone else should handle the complaint;
- your wishes, and the wishes of the respondent, regarding how the complaint should be handled;
- the relationship between you and the respondent (e.g., an actual or perceived power imbalance between you and the respondent);
- whether the facts of the complaint are in dispute; and
- the urgency of the complaint, including the possibility that you might face further unacceptable behaviour while the complaint process is underway.

If the CEO is the appropriate person to handle the complaint, he or she will, where appropriate and/or necessary:

- provide the information received from you to the other person(s) involved and ask for a response;
- decide if there is enough information to determine whether the matter alleged in your complaint did or did not occur; and/or
- determine what, if any, further action to take, including referring the matter for investigation or disciplinary action in accordance with this policy.

### Step 5: Investigating the complaint

In some cases, an investigation may be required to determine the facts surrounding the complaint. Our investigations procedure is outlined in Attachment D3.

Following the investigation, a written report will be provided to Code of Conduct Tribunal

- If the complaint is referred to **mediation**, we will follow the steps outlined in Attachment D2 or as agreed by you, the respondent and the mediator.
- If the complaint is referred to a **tribunal hearing**, the hearing will be conducted according to the steps outlined in Attachment D4.
- If the complaint is referred to the **police or another external agency**, we will endeavour to provide all reasonable assistance required by the police or the agency.

### Step 6: Reconsidering a complaint or appealing a decision

If the matter is referred to mediation and is not resolved at mediation, you may request that the General Manager reconsider the complaint in accordance with Step 3.

In accordance with RUSA rules, you or the respondent(s) may also appeal a decision made at a Code of Conduct hearing. The grounds and process for appeals are set out in Attachment D4.

**Step 7: Documenting the resolution**

The CEO will record the complaint, the steps taken to resolve it and the outcome. This information will be stored in a confidential and secure place. If the matter is of a serious nature, or if it was dealt with at the national level, the information will be stored by Rugby Union South Australia.

**Approaching external organisations**

If you feel that you have been harassed or discriminated against, you can seek advice from your state or territory anti-discrimination or equal opportunity commission. There is no obligation to make a formal complaint. However, if the commission advises you that the issues appear to be within its jurisdiction, you may choose to lodge a formal complaint with the commission.

The commission may investigate your complaint. The commission may also attempt to conciliate the complaint on a confidential basis. If this fails, or if it is not appropriate, the complaint may go to a formal hearing. The Code of Conduct tribunal will make a finding and decide what action, if any, will be taken.

If you do lodge a complaint with the commission, an appropriate person from our organisation (e.g. an MPIO) will be available to support you during the process. You may also wish to have a legal representation, particularly if the complaint goes to a formal hearing.

**The Equal Opportunity Commission can be contacted online at [www.eoc.sa.gov.au/](http://www.eoc.sa.gov.au/) or phone 08 8207 1977**

Serious incidents, such as assault or sexual assault, should be reported to the police.

## ATTACHMENT D2: MEDIATION

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Mediation is a process that seeks to resolve complaints with the assistance of an impartial person – the mediator.

The mediator does not decide who is right or wrong and does not tell either side what they must do. Instead, he or she helps those involved to discuss the issues and seeks to facilitate a mutually agreeable solution.

Our approach to mediation follows the steps set out below.

1. The CEO will appoint an appropriate mediator to help resolve the complaint. This will be done under the direction of RUSA and in consultation with the complainant and the respondent(s). The mediator will be an independent person in the context of the complaint; however, this does not preclude a person with an association with RUSA acting as mediator.
2. The mediator will talk with the complainant and respondent(s) about how the mediation will take place and who will participate. At a minimum, the mediator will prepare an agenda of issues to be discussed.
3. All issues raised during mediation will be treated confidentially. We also respect the rights of the complainant and the respondent(s) to pursue an alternative process if the complaint is not resolved.
4. If the complaint is resolved by mediation, where appropriate the mediator may seek to ensure the parties execute a document that sets out the agreement that has been reached. This agreement will be signed by the complainant and the respondent(s). We expect the parties involved to respect and comply with the terms of the agreement.
5. If the complaint is not resolved by mediation, the complainant may:
  - write to the CEO to request that the CEO reconsider the complaint; and
  - approach any relevant external agency, such as an anti-discrimination or equal opportunity commission, to resolve the matter.

We recognise that there are some **situations where mediation may not be appropriate**, including:

- when the people involved have completely different versions of the incident;
- when one or both parties are unwilling to attempt mediation;
- when there is a real or perceived power imbalance between the people involved;
- matters that involve serious allegations.

### MEDIATION SERVICES

In some circumstances RUSA may choose to engage **The State Sport Dispute Centre**, based at Sport SA, to provide independent mediation.

## ATTACHMENT D3: INVESTIGATION PROCESS

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There will be times when a complaint will need to be investigated and information gathered.

An investigation helps determine the facts relating to the incident, if requested, recommendations as to possible findings and next steps.

Any investigation we conduct will be fair to all people involved. The investigation process will be undertaken by an unbiased person.

If we decide that a complaint should be investigated, we will follow the steps outlined below.

1. We will provide a written brief to the investigator that sets out the terms of engagement and his or her roles and responsibilities.
2. The investigator may:
  - interview the complainant and record the interview in writing;
  - provide full details of the complaint to the respondent(s) so that they can respond
  - interview the respondent(s) to allow them to answer the complaint and record the interview in writing;
  - allow the complainant and respondent to provide material in writing;
  - obtain statements from witnesses and collect other relevant evidence;
  - 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);
    - **mischievous, vexatious or knowingly untrue.**
  - provide a report to the Code of Conduct tribunal documenting the complaint, the investigation process, the evidence) and, if requested, any findings and recommendations.
3. We will provide a report to the complainant and the respondent(s) documenting the complaint, the investigation process and summarising key points from the investigation.
4. The complainant and the respondent(s) will be entitled to support throughout this process from their chosen support person or adviser (e.g. Member Protection Officer).

## ATTACHMENT D4: TRIBUNAL PROCEDURES

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We will follow the steps set out below to hear formal complaints made under our Member Protection Policy.

### Preparing for a Code of Conduct Tribunal hearing

1. A Code of Conduct Tribunal panel will be established, according to the rules set out in our constituent documents, rules and by-laws, to hear a complaint that has been referred to it by MPIO or CEO.
2. The number of Code of Conduct Tribunal panel members required to be present throughout the hearing will be 3, as per Rugby Australia's Code of Conduct Policy.
3. The Code of Conduct Tribunal panel members will be provided with a copy of all the relevant correspondence, reports or information received and sent by CEO or MPIO relating to the complaint/allegations.
4. The Code of Conduct Tribunal hearing will be held as soon as practicable. However, adequate time must be provided for the respondent(s) to prepare for the hearing.
5. The Chair of the Code of Conduct Tribunal will inform the respondent(s) in writing that a Tribunal hearing will take place. The notice will outline:
  - that the person has a right to appear at the Code of Conduct Tribunal hearing to defend the complaint/allegations;
  - the details of the complaint and of all allegations, as well as the provision or clause of any policy, rule or regulation that has allegedly been breached;
  - the date, time and venue of the Code of Conduct Tribunal hearing;
  - that verbal and/or written submissions can be presented at the Code of Conduct Tribunal hearing;
  - those witnesses may attend the Code of Conduct Tribunal hearing to support the position of the respondent/s;
  - an outline of any possible sanctions that may be imposed if the complaint is found to be true;
  - That legal representation will be allowed. *The respondent may be assisted by a support person at a Tribunal hearing. For example, where the respondent is a minor, he or she should have a parent or guardian present.* A copy of any investigation report findings will be provided to the respondent(s).
6. The Chair of the Code of Conduct Tribunal will notify the complainant in writing that a Tribunal hearing will take place. The notice will outline:
  - that the person has a right to appear at the Code of Conduct Tribunal hearing to support their complaint;
  - the details of the complaint, including any relevant rules or regulations the respondent is accused of breaching;
  - the date, time and venue of the Code of Conduct Tribunal hearing;
  - that verbal and/or written submissions can be presented at the Code of Conduct Tribunal hearing;
  - that witnesses may attend the Code of Conduct Tribunal hearing to support the complainant's position;
  - that legal representation will be allowed. The respondent may be assisted by a support person at a Code of Conduct Tribunal hearing. For example, where the respondent is a minor, he or she should have a parent or guardian present.

A copy of the investigation report findings will be provided to the complainant.
7. If the complainant believes the details of the complaint are incorrect or insufficient, he or she should inform the Chair of Code of Conduct Tribunal as soon as possible so that the respondent(s) and members of the Code of Conduct Tribunal panel can be properly informed of the complaint.
8. If possible, the Tribunal panel should include at least one person with knowledge or experience of the relevant laws/rules (e.g., anti-discrimination).

### **Tribunal hearing procedure**

9. The following people will be allowed to attend the Code of Conduct Tribunal hearing:
  - Code of Conduct Tribunal panel members;
  - the respondent(s);
  - the complainant;
  - any witnesses called by the respondent(s);
  - any witnesses called by the complainant;
  - any parent/guardian or support person required to support the respondent or the complainant.
10. If the respondent(s) is not present at the set hearing time and the Chair of the Code of Conduct Tribunal considers that no valid reason has been presented for this absence, the Tribunal hearing will continue subject to the chairperson being satisfied that all Tribunal notification requirements have been met.
11. If the Chair of Code of Conduct Tribunal considers that there is a valid reason for the non-attendance of the respondent(s), or the Chair does not believe the Tribunal notification requirements have been met, then the Tribunal hearing will be rescheduled to a later date.
12. If the Code of Conduct Tribunal Chair wishes to reschedule the Tribunal hearing date, the Tribunal chairperson will inform the CEO of the need to reschedule the hearing and the Chair of the Code of Conduct will arrange for the Tribunal to be reconvened.
13. The Chair of the Code of Conduct Tribunal will read out the complaint, ask each respondent if he or she understands the complaint and if he or she agrees or disagrees with the complaint.
14. If the respondent agrees with the complaint, he or she will be asked to provide any evidence or witnesses that should be considered by the Tribunal when determining any sanctions.
15. If the respondent disagrees with the complaint, the complainant will be asked to describe the circumstances that lead to the complaint being made.
  - Reference may be made to brief notes.
  - The complainant may call witnesses.
  - The respondent may question the complainant and any witnesses.
16. The respondent will then be asked to respond to the complaint.
  - Reference may be made to brief notes.
  - The respondent may call witnesses.
  - The complainant may ask questions of the respondent and any witnesses.
17. The complainant and respondent(s) may be present when evidence is presented to the Code of Conduct Tribunal hearing. Witnesses may be asked to wait outside the hearing until they are required.
18. The Code of Conduct Tribunal may:
  - consider any evidence, and in any form, that it deems relevant;
  - ask questions of any person giving evidence;
  - limit the number of witnesses (including limiting witnesses to those persons who only provide new evidence);
  - require (to the extent it has power to do so) the attendance of any witness it deems relevant; and
  - act in an inquisitorial manner in order to establish the truth of the issue/complaint before it.
19. Video evidence, if available, may be presented. Arrangements for the viewing of this evidence must be made entirely by the person(s) wishing to offer this type of evidence.
20. If the Code of Conduct Tribunal panel considers that at any time during the hearing there is any unreasonable or intimidatory behaviour from anyone, the Chair may deny further involvement of that person in the hearing.
21. After all the evidence has been presented, the Code of Conduct Tribunal will make its decision in private. The Tribunal must decide whether the complaint has, on the balance of probabilities, been substantiated.
22. All Tribunal decisions will be by majority vote.
23. The Chair of the Code of Conduct Tribunal may announce the decision of the Tribunal at the conclusion of the hearing. Alternatively, he or she may reserve the decision of the Tribunal at the conclusion of the hearing and deliver the decision at a later time.
24. The respondent(s) will have the opportunity to make submissions to the Code of Conduct Tribunal in relation to any sanctions that may be imposed.

25. Within 48 hours of the Code of Conduct Tribunal delivering its decision, the Chair will:
  - forward a notice of the Tribunal's decision to the CEO, including details of any sanction imposed.
  - forward a letter reconfirming the Tribunal's decision to the respondent(s), including any sanction imposed. The letter should also outline the process and grounds for an appeal, if allowed.
26. The Tribunal does not need to provide written reasons for its decision.

### **Appeals procedure**

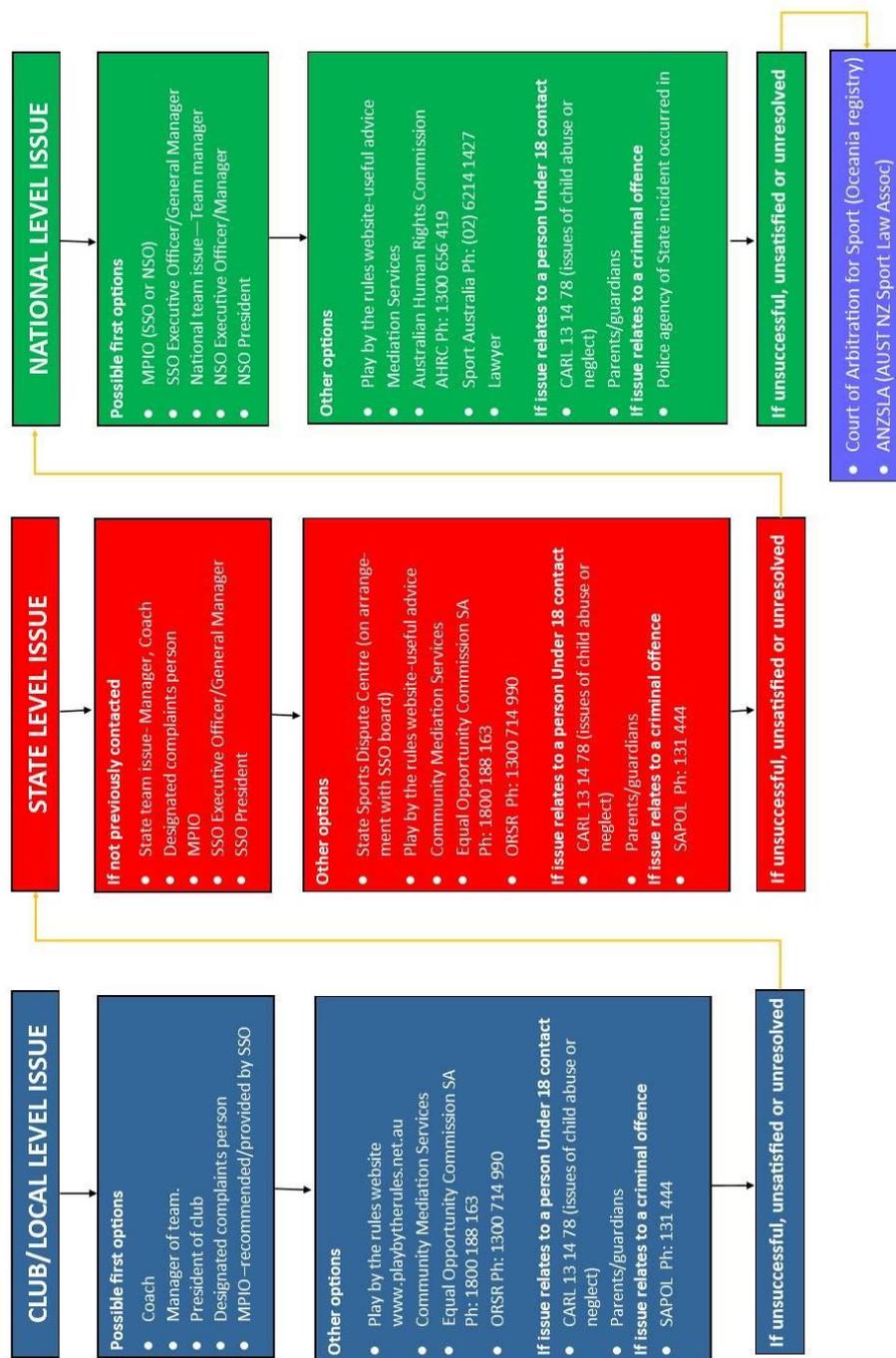
27. A complainant or a respondent(s) may lodge with RUSA an appeal in relation to the decision of a Tribunal on one or more of the following grounds:
  - that a denial of procedural fairness has occurred;
  - that the sanction imposed is unjust and/or unreasonable;
  - that the decision was not supported by the information/evidence provided at the mediation or to the Tribunal Hearing;
28. A person wanting to appeal must lodge a letter setting out the basis for their appeal with the CEO within 7 days of the decision being made. An appeal fee of \$200 shall be included with the letter of intention to appeal.
29. If the letter of appeal is not received by the CEO within this time, the right of appeal will lapse. If the letter of appeal is received but the appeal fee is not received within this time, the appeal will also lapse.
30. The letter of appeal and the notice of the Code of Conduct Tribunal's decision (clause 24) will be forwarded to the CEO to review and to decide whether there are sufficient grounds for the appeal to proceed. The Code of Conduct Tribunal may invite any witnesses to the meeting that he or she believes are required to make an informed decision.
31. If the appellant has not shown sufficient grounds for an appeal in accordance with clause 26, then the appeal will be rejected. The appellant will be notified in writing, including the reasons for the decision. The appeal fee will be forfeited.
32. If the appeal is accepted, an Appeal Tribunal with new panel members will be convened to rehear the complaint, and the appeal fee will be refunded.
33. The Code of Conduct Tribunal hearing procedure shall be followed for the Appeal Tribunal.
34. The decision of the Appeal Tribunal will be final and binding.

# ATTACHMENT D5: PBTR COMPLAINT FLOW CHART



## Complaints Flowchart—SA

This chart may assist with determining who to contact first when dealing with a complaint. Always start at the level that the incident occurred and always refer to your organisation's Member Protection Policy



## ATTACHMENT E1: RECORD OF INFORMAL COMPLAINT

Name of person receiving complaint			Date:     /     /
Complainant's Name	Over 18	Under 18	
Role/status (please circle)	Administrator (volunteer) Athlete/player Coach/Assistant Coach Employee (paid) Other	Parent Spectator Support Personnel Official .....	
When/where did the incident take place?			
What are the facts relating to the incident, as stated by complainant?			
What is the nature of the complaint? (category/basis/grounds)	Harassment                      or                      Discrimination		
Please circle more than one box if necessary	Sexual/sexist Sexuality Race Religion Pregnancy Other .....	Selection dispute Personality clash Bullying Disability Child Abuse	Coaching methods Verbal abuse Physical abuse Victimisation Unfair decision
What does the complainant want to happen to resolve the issue?			
What other information has the complainant provided?			
What is the complainant going to do now?			

**This record and any notes must be kept confidential and secure.** If the issue becomes a formal complaint, this record is to be given to the CEO

## ATTACHMENT E2: RECORD OF FORMAL COMPLAINT

Complainant's Name	Over 18 Under 18	Date Formal Complaint Received: / /
Complainant's contact details	Phone: Email:	
Complainant's role/position (please circle)	Administrator (volunteer) Athlete/player Coach/Assistant Coach Employee (paid) Other	Parent Spectator Support Personnel Official .....
Name of person complained about (respondent)	Over 18 Under 18	
Respondent's role/position (please circle)	Administrator (volunteer) Athlete/player Coach/Assistant Coach Employee (paid) Other	Parent Spectator Support Personnel Official .....
Location/event of alleged incident		
Description of alleged incident		
Nature of complaint (category/basis/grounds)  Please circle more than one box if necessary	Harassment or Discrimination  Sexual/sexist      Selection dispute      Coaching methods Sexuality      Personality clash      Verbal abuse Race      Bullying      Physical abuse Religion      Disability      Victimisation Pregnancy      Child Abuse      Unfair decision Other .....	
Methods (if any) of attempted informal resolution		
Formal resolution procedures followed (outline)		

If investigated:	Finding
If heard by Tribunal:	Decision  Action recommended
If mediated:	Date of mediation:  Both/all parties present  Agreement  Any other action taken
If decision was appealed	Decision  Action recommended
Resolution	Less than 3 months to resolve Between 3 – 8 months to resolve More than 8 months to resolve
Completed by	Name:  Position:  Signature: <span style="float: right;">Date / /</span>
Signed by:	Complainant:  Respondent:

**This record and any notes must be kept confidential and secure.** If the complaint is of a serious nature, or if it is taken to and/or dealt with at the national level, the original record must be provided to RUSA and a copy kept with the organisation where the complaint was first made.

## ATTACHMENT E3: PROCEDURE FOR HANDLING ALLEGATIONS OF CHILD ABUSE

**If you believe a child is in immediate danger or a life-threatening situation, contact the Police immediately on 000.**

We will treat any allegation of child abuse or neglect promptly, seriously and with a high degree of sensitivity.

All people working with RUSA in a paid or unpaid capacity have a duty to report any concerns to the appropriate authorities, following the steps outlined below.

### Step 1: Receive the allegation

If a child or young person raises with you an allegation of child abuse or neglect that relates to them or to another child, it is important that you listen, stay calm and be supportive.

Do	Don't
Make sure you are clear about what the child has told you	Do not challenge or undermine the child
Reassure the child that what has occurred is not his or her fault	Do not seek detailed information, ask leading questions or offer an opinion.
Explain that other people may need to be told in order to stop what is happening.	Do not discuss the details with any person other than those detailed in these procedures.
Promptly and accurately record the discussion in writing.	Do not contact the alleged offender.

### Step 2: Report the allegation

- Immediately report any allegation of child abuse or neglect, or any situation involving a child at risk of harm, to the police and/or the relevant child protection agency. You may need to make a report to both.
- Contact the relevant child protection agency or police for advice if there is **any** doubt about whether the allegation should be reported.
- If the allegation involves a person to whom this policy applies, then also report the allegation to the Rugby Operations Manager of RUSA so that he or she can manage the situation.

### Step 3: Protect the child and manage the situation

- The CEO will assess the immediate risks to the child and take interim steps to ensure the child's safety and the safety of any other children. This may include redeploying the alleged offender to a position where there is no unsupervised contact with children, supervising the alleged offender or removing/suspending him or her until any investigations have been concluded. Legal advice should be sought before any interim steps are made if the person is an employee of RUSA
- The CEO will consider what services may be most appropriate to support the child and his or her parent/s.
- The CEO will consider what support services may be appropriate for the alleged offender.
- The CEO will seek to put in place measures to protect the child and the alleged offender from possible victimisation and gossip.

**Step 4: Take internal action**

- At least three different investigations could be undertaken to examine allegations that are made against a person to whom this policy applies, including:
  - a criminal investigation (conducted by the police)
  - a child protection investigation (conducted by the relevant child protection agency)
  - a disciplinary or misconduct inquiry/investigation (conducted by RUSA).
- RUSA will assess the allegations and determine what action should be taken in the circumstances. Depending on the situation, action may include considering whether the alleged offender should return to his or her position, be dismissed, banned or suspended or face other disciplinary action.
- If disciplinary action is undertaken, we will follow the procedures set out in Clause 9 of our Member Protection Policy.
- Where required we will provide the relevant government agency with a report of any disciplinary action we take.

## ATTACHMENT E4: CONFIDENTIAL RECORD OF CHILD ABUSE ALLEGATION

Before completing, ensure the procedures outlined in attachment E3 have been followed and advice has been sought from the relevant government agency and/or police.

Complainant's Name (if other than the child)		Date Formal Complaint Received:    /    /
Role/status in sport		
Child's name		Age:
Child's address		
Person's reason for suspecting abuse (e.g. observation, injury, disclosure)		
Name of person complained about		
Role/status in sport	Administrator (volunteer) Athlete/player Coach/Assistant Coach Employee (paid) Other	Parent Spectator Support Personnel Official .....
Witnesses (if more than 3 witnesses, attach details to this form)	Name (1):  Contact details:  Name (2):  Contact details:  Name (3):  Contact details:	
Interim action (if any) taken (to ensure child's safety and/or to support needs of person complained about)		
Police contacted	Who:  When:  Advice provided:	

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

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

## **ATTACHMENT E5** **REPORTING CHILD ABUSE AND NEGLECT**

Under the *Children and Young People (Safety) Act 2017* mandated notifiers are required by law to notify the Department for Child Protection **Child Abuse Report Line 13 1478**, if they suspect on reasonable grounds that a child or young person is, or may be, at risk and the suspicion is formed in the course of the person's work (whether paid or voluntary) or in carrying out official duties.

Mandated notifiers are any person who is an employee of, or volunteer in, a government or non-government organisation that provides health, welfare, education, sporting or recreational, child care or residential services wholly or partly for children.

These people:

- a) Are engaged in the actual delivery of those services to children; or
- b) Hold a management position in the relevant organisation the duties of which include direct responsibility for, or direct supervision of, the provision of those services to children.

It is an offence to prevent a person from discharging the obligation of mandatory reporting through threat, intimidation or unfavourable treatment.

NB: There is no legal requirement for a mandatory reporter to be trained. Rather, everyone in the above roles have a responsibility to report.

RUSA supports that all people engaged in activities associated with Rugby Union SA have a moral obligation to report any suspicion of child abuse or neglect.

Further information can be found at: <https://www.childprotection.sa.gov.au/reporting-child-abuse>