

# RUGBY AU

## MEMBER PROTECTION POLICY

<b>Implementation date: v1</b>	1 November 2021
<b>Review date:</b>	1 November 2023 (or as may be required due to guidance from Sport Integrity Australia)
<b>Approved by:</b>	Rugby Australia Board
<b>Linked legislation, regulations and/or external policies</b>	Sport Integrity Australia Member Protection Policy <i>Age Discrimination Act 2004 (Cth)</i> <i>Disability Discrimination Act 1992 (Cth)</i> <i>Racial Discrimination Act 1975 (Cth)</i> <i>Sex Discrimination Act 1984 (Cth)</i> <i>Anti-Discrimination Act 1977 (NSW)</i> <i>Anti-Discrimination Act 1991 (Qld)</i> <i>Anti-Discrimination Act 1996 (NT)</i> <i>Anti-Discrimination Act 1998 (Tas)</i> <i>Discrimination Act 1991 (ACT)</i> <i>Equal Opportunity Act 1984 (SA)</i> <i>Equal Opportunity Act 1984 (WA)</i> <i>Equal Opportunity Act 2010 (Vic)</i>

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## **INTRODUCTION**

Rugby AU is committed to ensuring that everyone involved in Rugby Union ('**rugby**') is treated with respect and dignity and is protected from abuse, bullying, harassment, sexual misconduct, unlawful discrimination, victimisation, and vilification.

This Member Protection Policy ('**Policy**'), based on the template policy produced by Sport Integrity Australia, replaces Rugby AU's previous policy<sup>1</sup> and seeks to ensure that everyone involved in rugby is aware of their rights and responsibilities.

The Policy sets out the standards of behaviour expected of those involved in rugby, and the behaviours that are not acceptable ('**Prohibited Conduct**'). All Relevant Persons are under an obligation to make themselves aware of the contents of this Policy, for example through conducting education in Rugby Learning Centre.<sup>2</sup> Any breaches of the requirements of the Policy shall be dealt with under the provisions set out in the Code of Conduct.

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<sup>1</sup> The previous Rugby AU Member Protection Policy was last updated and issued in November 2015.

<sup>2</sup> <https://rugbyaustralia.canopihr.com.au/mylearning/dashboard/index>

## **1. DEFINITIONS**

In the Policy the following words have the corresponding meaning:

**Abuse** means any type of abuse (including physical, emotional, psychological, sexual and inappropriate use of power) that has caused, is causing or is likely to cause harm to a person's wellbeing, whether in person or as the result of a publication viewable by any other person by any means.

**Activity** means a rugby contest, match, competition, tournament, event, or rugby related activity (including training), whether on a one-off basis or as part of a series, league, or competition, tournament sanctioned or organised by a Relevant Organisation.

**Bullying** means a person or group of people repeatedly and intentionally using words or actions, or the inappropriate use of power, against someone or a group of people to cause distress and risk to their wellbeing.

**Club** means any club that enters a Team to participate in an Activity.

**Code of Conduct** means the Rugby Australia Code of Conduct or Professional Player Code of Conduct that will be used for the handling and resolution of complaints regarding Prohibited Conduct under this Policy.

**Contractor** means any person or organisation engaged to provide services for or on behalf of a Relevant Organisation, and includes agents, advisers, and subcontractors of a Relevant Organisation and employees, officers, volunteers, and agents of a contractor or subcontractor.

**Employee** means a person employed by a Relevant Organisation.

**Harassment** means any type of behaviour towards a person that they do not want and that is offensive, abusive, belittling or threatening and is reasonably likely to cause harm to the person who is the subject of the harassment.

**Individual Member** means an individual that is registered with a Relevant Organisation.

**Member** means a Relevant Organisation or an Individual Member.

**Participant means:**

- (a) **Players** that are registered with or entitled to participate with a Relevant Organisation or in a rugby Activity;
- (b) **Coaches** appointed to train a Player or Team in a Relevant Organisation or in a rugby Activity;
- (c) **Administrators** that have a role in the administration or operation of a Relevant Organisation or in a rugby Activity, including owners, directors, committee members or other persons;
- (d) **Officials** including referees, citing commissioners, television match officials, or other officials appointed by a Relevant Organisation or any league, competition, series, Club or Team sanctioned by a Relevant Organisation; and
- (e) **Support Personnel** that are appointed in a professional or voluntary capacity by a Relevant Organisation or in a rugby Activity including, but not limited to, sports science sport medicine personnel, team managers, agents, selectors, and team staff members.

**Player** – means an individual that plays rugby union.

**Policy** means this Member Protection Policy including any schedules and annexures.

**Prohibited Conduct** means the conduct proscribed at clause 3 of this Policy.

**Relevant Organisation** means any of the following organisations:

- (a) **Rugby AU;**
- (b) **Member Unions<sup>3</sup>;**
- (c) **Affiliated Unions<sup>4</sup>;**
- (d) **Rugby Bodies<sup>5</sup>; and**
- (e) **Any other organisation** that has agreed to be bound by this Policy.

**Relevant Person** means any of the following persons:

- (a) **Individual Member**
- (b) **Participant;**
- (c) **Employee;**
- (d) **Contractor;**
- (e) **Volunteer**, which means any person engaged by a Relevant Organisation or in a rugby Activity in any capacity who is not otherwise an Employee or Contractor, including directors and office holders, coaches, officials, administrators and team and support personnel; and
- (f) **Any other individual** who has agreed to be bound by this Policy.

**Sexual Misconduct** means:

- (a) **Sexual Harassment**, which is any unwanted or unwelcome sexual behaviour where a reasonable person would anticipate the possibility that the person being harassed would feel offended, humiliated, or intimidated; and
- (b) **Sexual Offences**, which include any criminal offence involving sexual activity or actions of indecency.

**Team** means a collection or squad of Players who compete and/or train in a rugby activity.

**Unlawful Discrimination** includes:

- (a) **Direct Discrimination**, when a person or group of people is treated less favourably than another person or group, because of a personal characteristic; and
- (b) **Indirect Discrimination**, when an unreasonable rule or policy applies to everyone but has the effect of disadvantaging some people because of a personal characteristic they share, where such personal characteristic is protected by applicable anti-discrimination legislation.

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<sup>3</sup> Member Unions include Australian Capital Territory Rugby Union; New South Wales Rugby Union; Northern Territory Rugby Union; Queensland Rugby Union; South Australia Rugby Union; Tasmanian Rugby Union; Victorian Rugby Union; Western Australia Rugby Union.

<sup>4</sup> The Affiliated Unions include Australian Junior Rugby Football Union Ltd; Australian Rugby Football Schools Union; Australian Defence Force Rugby Union; Australian Universities Rugby Union; Australian Barbarian Rugby Club; Australian Women's Rugby Football Union; Classic Wallabies; NSW Country Rugby Union; Sydney Rugby Union and any other body that is or becomes an "Affiliated Union" pursuant to the terms of the Rugby AU Constitution, as amended from time to time.

<sup>5</sup> Rugby Body means Rugby AU, each Member Union and Affiliated Union, any union, association or other body in membership with or affiliated to a Member Union or Affiliated Union and any rugby club in membership with or affiliated to any of the foregoing.

**Victimisation** means subjecting a person, or threatening to subject a person, to any unfair treatment because the person has made, or intends to pursue their right to make, a complaint or lawful disclosure, including under applicable legislation or this Policy, or for supporting another person to take such action.

**Vilification** means a public act, conduct or behaviour that incites hatred, serious contempt for, or revulsion or severe ridicule of, a person or group of people because of a particular characteristic they hold, as covered by applicable legislation, including their race or religion, or homosexuality, transgender or HIV/AIDS status.

## **2. JURISDICTION**

### **2.1 Who the Policy applies to**

This Policy applies to:

- (a) Relevant Persons; and
- (b) Relevant Organisations.

### **2.2 When the Policy applies**

- (a) All Relevant Persons and Relevant Organisations to which this Policy applies must always comply with this Policy (whilst they are a Relevant Person or Relevant Organisation), including:
  - (i) in relation to any dealings they have with Relevant Organisations or their staff, contractors, and representatives;
  - (ii) when dealing with other Relevant Persons or Relevant Organisations in their capacity as a Relevant Person/Relevant Organisation; and
  - (iii) in relation to their Membership or standing as a Relevant Person or Relevant Organisation in general.
- (b) The following is not within the scope of this Policy:
  - (i) where an interaction (including social media interactions) occurs involving one or more Relevant Persons or Relevant Organisations, and the only link or connection between the interaction and rugby is the fact that one or more individuals are Relevant Persons or Relevant Organisations<sup>6</sup>;
  - (ii) where Prohibited Conduct occurs in contravention of this Policy, any subsequent conduct or interaction(s) that, whilst related to the original Prohibited Conduct, no longer directly relates to rugby (even where such conduct or interaction(s) would otherwise be Prohibited Conduct)<sup>7</sup>; and
  - (iii) where the Relevant Organisation determines, in their absolute discretion, that the alleged Prohibited Conduct would be more appropriately dealt with under a different Rugby AU policy, code, rules or regulations.

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<sup>6</sup> Such as two Members of a Relevant Organisation getting into a verbal or physical argument at a shopping centre, or two Members sending abusive social media messages to each other that have no direct link to rugby.

<sup>7</sup> Such as where a Member of a Relevant Organisation allegedly breaches this Policy by physically assaulting another Member at a match, but then the personal grievance(s) between those two individuals spills into issues not directly related to rugby, such as social media abuse or trolling.

### **3. PROHIBITED CONDUCT**

#### **3.1 Prohibited Conduct**

A Relevant Person or Relevant Organisation commits a breach this Policy when they, either alone or in conjunction with another or others, engage in any of the following conduct against one or more Relevant Persons or Relevant Organisations, in the circumstances outlined in clause 2:

- (a) Abuse;
- (b) Bullying;
- (c) Harassment;
- (d) Sexual Misconduct;
- (e) Unlawful Discrimination;
- (f) Victimisation; or
- (g) Vilification.

**SCHEDULE 1** sets out examples of what may constitute Prohibited Conduct under the Policy

### **4. DEALING WITH ALLEGED BREACHES OF THE POLICY**

The Rugby AU Code of Conduct will apply to any alleged breaches of the Policy.

## **SCHEDULE 1 - EXAMPLES OF PROHIBITED CONDUCT**

### **1. Abuse** may include:

- (a) physical abuse and assault including hitting, slapping, punching, kicking, and destroying property, sleep, and food deprivation, forced feeding, unreasonable physical restraint, spitting at another person or biting;
- (b) sexual abuse including rape and assault, using sexually degrading insults, forced sex or sexual acts, deliberately causing pain during sex, unwanted touching or exposure to pornography, sexual jokes, using sex to coerce compliance;
- (c) emotional abuse such as repeated and intentional embarrassment in public, preventing or excluding someone from participating in sport activities, stalking, humiliation, and intimidation;
- (d) verbal abuse such as repeated or severe insults, name calling, criticism, swearing and humiliation, attacks on someone's intelligence, body shaming, aggressive yelling;
- (e) financial abuse such as restricting access to bank accounts, taking complete control of finances and money, forbidding someone from working, taking someone's pay and not allowing them to access it;
- (f) neglect of a person's needs.

### **2. Bullying** may include repeatedly:

- (a) keeping someone out of a group (online or offline);
- (b) acting in an unpleasant way near or towards someone;
- (c) giving nasty looks, making rude gestures, calling names, being rude and impolite, and constantly negative teasing;
- (d) spreading rumours or lies, or misrepresenting someone (i.e. using their social media account to post messages as if it were them);
- (e) 'fooling around', 'messaging about' or other random or supposedly playful conduct that goes too far;
- (f) harassing someone based on their race, sex, religion, gender, or a disability;
- (g) intentionally and repeatedly hurting someone physically;
- (h) intentionally stalking someone; and
- (i) taking advantage of any power over someone else, but does not include legitimate and reasonable:
  - (i) management action;
  - (ii) management processes;
  - (iii) disciplinary action; or
  - (iv) allocation of activities in compliance with agreed systems.

### **3. Harassment** may include behaviour such as:

- (a) telling insulting jokes about racial groups;
- (b) sending explicit or sexually suggestive emails or text messages;



- (c) displaying racially offensive or pornographic images or screen savers;
- (d) making derogatory comments or taunts about someone's race;
- (e) asking intrusive questions about someone's personal life, including his or her sex life;
- (f) sexual harassment or any of the above conduct in the workplace by employers, co-workers, and other workplace participants;
- (g) any of the above conduct in the workplace, based on or linked to a person's disability or the disability of an associate; and
- (h) offensive behaviour based on race or racial hatred, such as something done in public that offends, insults, or humiliates a person or group of people because of their race, colour or national or ethnic origin.

4. **Sexual Misconduct** may include:

- (a) unwelcome touching;
- (b) staring or leering;
- (c) suggestive comments or jokes;
- (d) showing or sharing sexually explicit images or pictures;
- (e) unwanted invitations to go out on dates;
- (f) requests for sex;
- (g) intrusive questions about a person's private life or body;
- (h) unnecessary familiarity, such as deliberately brushing up against a person;
- (i) insults or taunts based on sex;
- (j) sexually explicit physical contact;
- (k) sending sexually explicit or suggestive emails, texts, or other electronic/social media messages;
- (l) displaying pornographic images or screen savers;
- (m) asking intrusive questions about someone's personal life, including about his or her sex life; and
- (n) criminal offences such as rape, indecent or sexual assault, sexual penetration, relationship with a child under the age of 16 or possession of child pornography.

5. **Unlawful Discrimination** may include unfair treatment based on a person's:

- (a) age;
- (b) disability;
- (c) race, colour, national or ethnic origin or immigrant status;
- (d) sex, pregnancy, marital or relationship status, family responsibilities or breastfeeding; and
- (e) sexual orientation, gender identity or intersex status.

6. **Victimisation** may include:

- (a) dismissal of an employee/volunteer or disadvantage to their employment/involvement in sport;
- (b) alteration of an employee/volunteer's position or duties to his or her disadvantage;
- (c) discrimination between an employee/volunteer and other employees/volunteers;
- (d) repeated failure to select an individual on merit;
- (e) a reduction in future contract value; and
- (f) removal of coaching and other financial and non-financial support.

7. **Vilification** may include:

- (a) speaking about a person's race or religion in a way that could make other people dislike, hate, or ridicule them;
- (b) publishing claims that a racial or religious group is involved in serious crimes without any evidence in support;
- (c) repeated and serious verbal or physical abuse about the race or religion of another person;
- (d) encouraging violence against people who belong to a particular race or religion, or damaging their property; or
- (e) encouraging people to hate a racial or religious group using flyers, stickers, posters, a speech, or publication, or using websites or email.