



CODE OF CONDUCT TRAINING 2023

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Welcome, and thank you for attending!

- Please keep your cameras on so we can see you, but if you're not speaking, please mute your microphone
 - Please write your name, club and club position in the chat box so we know who's attended this training if you didn't already complete the pre-workshop information sheet
 - Please ask as many questions as you like, either by coming off mute or using the chat box
 - This is an interactive workshop, the more group discussion we have the better
-
- Network! This is a great chance to make connections with people in similar roles to you, don't be afraid to get in touch with each other, share best practices and ask questions

Acknowledgement

- I acknowledge that I am hosting this workshop from the lands of the Wurundjeri Woi-wurrung and Bunurong Boon Wurrung peoples of the Eastern Kulin, and RA staff are delivering this from the lands of the Gadigal people
- I also acknowledge the Traditional Custodians of the various lands on which you all work today and the Aboriginal and Torres Strait Islander people participating in this workshop
- I pay my respects to Elders past, present and emerging and celebrate the diversity of Aboriginal peoples and their ongoing cultures and connections to the lands and waters of Australia

LEARNING OBJECTIVES

- What are my obligations?
- Conducting an investigation
- Breach Notices
- Convening Code of Conduct Committee Hearings
- Would anyone care to elaborate on what they would like to get from the workshop before we begin?



Code of Conduct

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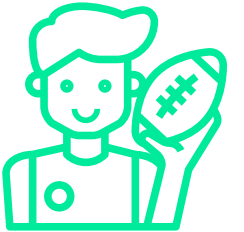
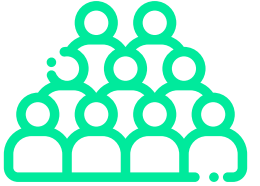
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Code of Conduct – What does it do?

- Seeks to ensure that we all act in accordance with and uphold the Game's core values of:
 - **Passion**
 - **Integrity**
 - **Discipline**
 - **Respect**
 - **Teamwork**
- Sets out the expected standards of behaviours for **all involved in Rugby** to ensure a **safe, fair** and **inclusive** environment
- Seeks to deter conduct that could damage the image and integrity of rugby
- Sets out a harmonised approach to the handling and resolution of complaints

Code of Conduct – Who does it apply to?

- Short answer: **Everyone**
 - **Relevant Organisations** (Rugby AU, Member Unions, Affiliated Unions and Rugby Body, including Clubs and Event Organisers)
 - **Relevant Persons** (Members, players, coaches, administrators, officials, support personnel, spectators, sponsors, parents, guardians, employees, contractors, volunteers and anyone else involved in rugby)



Code of Conduct – When does it apply?

- The Code won't always apply
- Generally, the Code applies where the dealing or interaction is directly linked or connected to rugby
- It can apply everywhere – to in person interactions, interactions away from the rugby environment, over the phone, via email or on social media
- However, it does **not** apply:
 - Where the only link or connection to rugby is the fact that one or more individuals are Relevant Persons or Relevant Organisations
 - To conduct subsequent to Prohibited Conduct, where that subsequent conduct no longer directly relates to rugby
 - Where the Relevant Organisation determines that the conduct would be more appropriately dealt with under a different policy or by a different organisation

Code of Conduct - Obligations

Relevant Organisations



- Publish/promote RA Code
- Recognise sanctions
- Appoint a person responsible for administration
- Ensure other organisation documents comply (and don't contradict) the Code



Relevant Persons

- Comply with the Code and decisions
- Cooperate
- Report

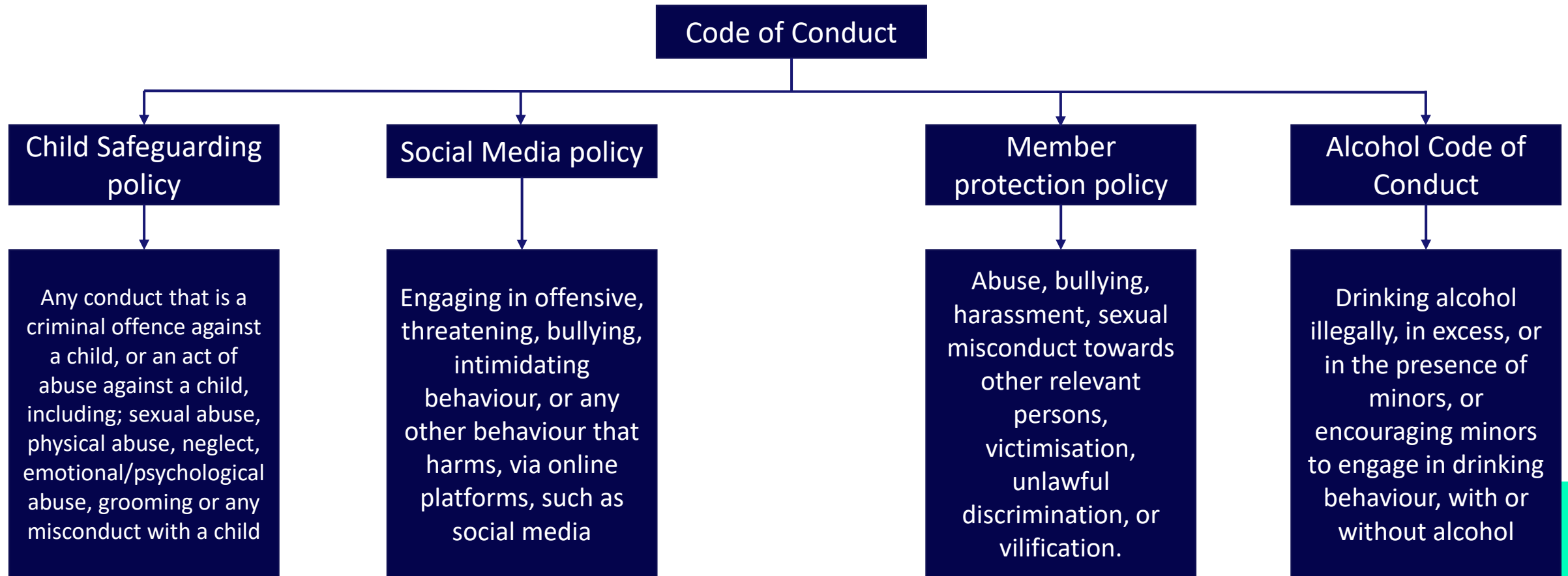


Prohibited Conduct

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What conduct is prohibited?



Prohibited Conduct under the Code

- Failing to accept or respect the authority of match officials or using offensive behaviour or language towards them (on or off the field)
- Failing to treat others with respect, courtesy, dignity or failing to act ethically, honestly, or with integrity
- Acting in a way that is unbecoming of themselves or the Relevant Organisation, or is harmful to the interests of a Relevant Organisation
- Acting in a way that brings the game into disrepute
- Behaving in a way that creates a public nuisance or disturbance
- Being convicted of a drug offence or in possession or under the influence of an illicit drug at or around the venue
- Failing to cooperate in any Code investigation or proceeding, or providing inaccurate or misleading information in any such proceeding
- Failing to provide a safe environment for the conduct of rugby activities as required by any Rugby policies, codes or guidelines
- Failing to comply with all reasonable directions and accept all decisions of a Relevant Organisation or its representatives

Prohibited Conduct under the Child **Safeguarding** Policy

- Breaching any of the Child Safe Practices
- Child Abuse (physical, emotional, psychological, sexual, neglect and exposure to family violence)
- Failing to comply with legislative requirements (including WWCC requirements)
- Grooming
- Misconduct with a child (including age-inappropriate behaviour)
- Asking a child to keep any communication a secret
- Supplying alcohol or drugs (including tobacco) to a child
- Failing to comply with recruitment and screening requirements
- Failing to report breaches of the policy





Managing Complaints

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Report a Concern

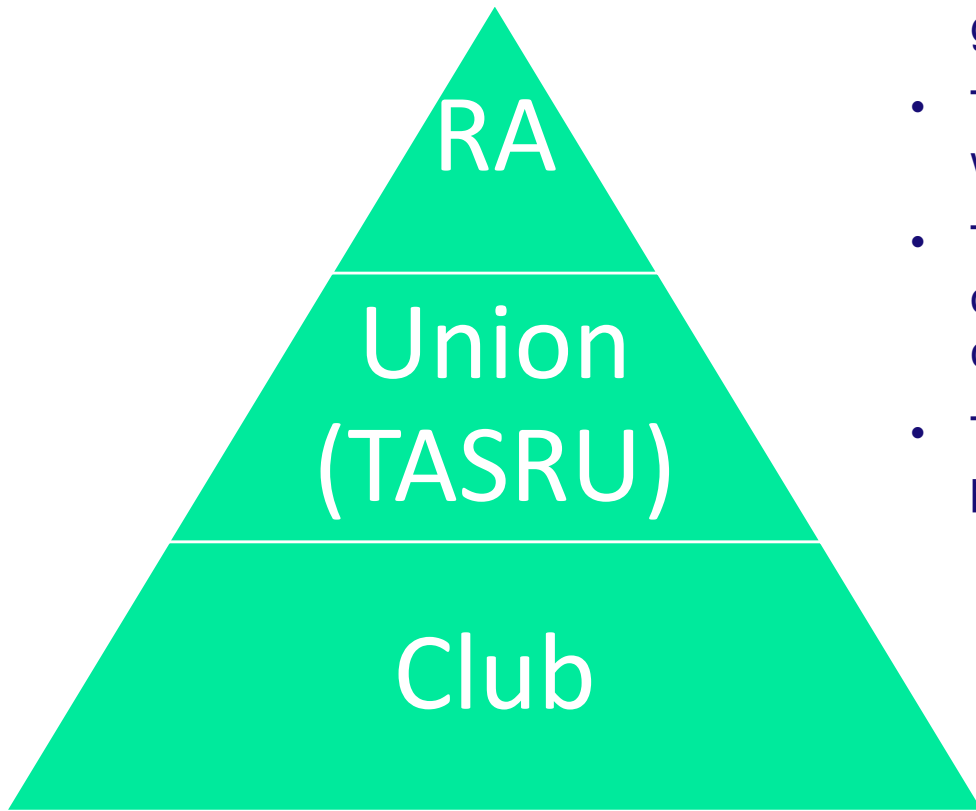
Any complaint that a rugby participant has needs to be appropriately captured from the beginning of the process to ensure that it can be reviewed and appropriately dealt with.

The first step in the complaint process is to have the participant lodge the complaint through the [Rugby AU – Report a Concern](#) platform.

Report a concern Menu

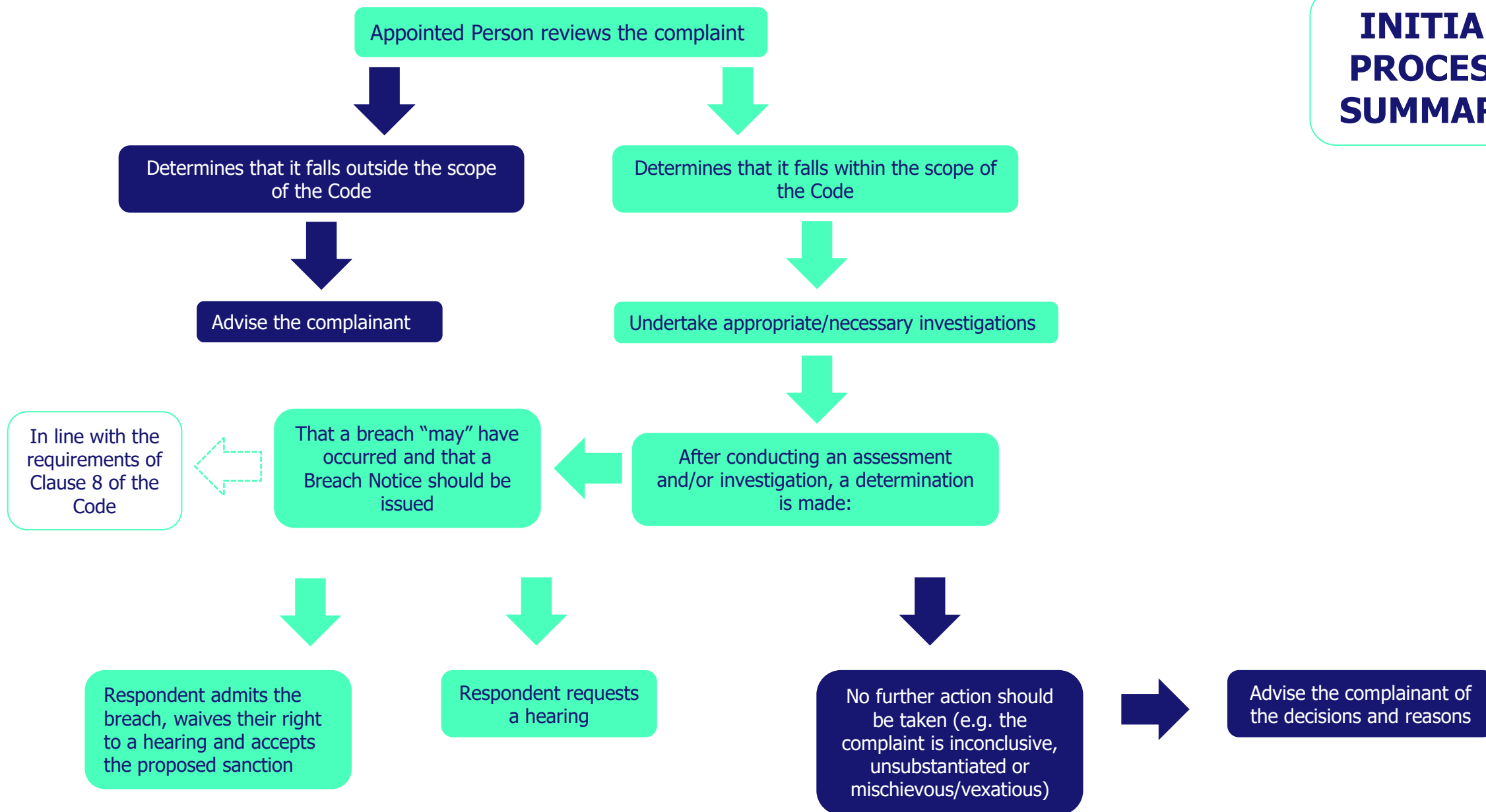
Child Safety	→	Doping Incident	→
Betting or Corruption Incident	→	Match Official Abuse	→
Sexual Harassment	→	Other Incident	→

At what level should a complaint be dealt with?



- Rugby in Australia operates under a federated tiered system of governance
- This tiered structure is important when it comes to determining at which level a complaint and investigation process is to be handled.
- The level immediately above the level at which the complaint has occurred, is responsible for determining who should handle the complaint at first instance.
- The lowest level at which a matter can be dealt with shall always be preferred unless:
 - There is a real or perceived conflict of interest
 - If Rugby Au Head of Integrity (Amy Thorp) considers it necessary and appropriate for the complaint to be dealt with at another level or by Rugby AU

INITIAL PROCESS SUMMARY



Appointed Person

- Each organisation within the Australian rugby system needs to have an Appointed Person for the purposes of dealing with any complaints covered by the Rugby AU Code of Conduct.
- The Appointed Person may change as required, but each organisation should ensure that all Appointed Persons are knowledgeable when it comes to the provisions of the Code of Conduct.
- An Appointed Person should be formally appointed by the organisation's CEO / President / Chairperson in writing, so that individuals can be sure of their authority to act in the role and understand who they need to be communicating with internally within the organisation.





Investigations

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Investigating

- **Purpose** of an investigation is to gather the relevant evidence. It is **not** to prove or disprove the allegation/s or to determine whether a breach has occurred
- Investigations should be conducted in a **timely** manner



Investigating

- **Tips:**
 - Be open-minded
 - Be mindful of the environment when speaking to a complainant, witness or respondent
 - Is it private?
 - Quiet?
 - A good time of day to be having the discussion?
 - Is a support person, or parent or guardian required?
 - **Keep records**
 - Maintain confidentiality wherever possible
 - Manage the complainant's expectations but DON'T make promises or assurances about the direction or outcome
 - Investigations evolve, your investigation plan might change as new information comes to light
 - Always be on the look out for issues that heighten the risk or nature of the matter and refer or consult with QRU as appropriate, i.e. a potential criminal offence, a potential safety or child safeguarding risk, a reputational risk, a legal or financial liability risk
 - Tailor the formality of your investigation to the matter – the higher the risk, the more formal.



Breach notices

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Determining whether a Breach Notice should be issued

- At the conclusion of an investigation, the Appointed Person must determine:
 - whether a breach “may” have occurred and
 - whether a Breach Notice “should” be issued
- If yes to both – Issue a Breach Notice
- If no – No further action
- Whether a breach “may” have occurred is a low threshold



Determining whether a Breach Notice should be issued

Examples:

1. A match official complains that as he was leaving the field, a spectator looked him in the eye and yelled “you’re a f*cking disgrace; get your eyes checked”. Investigations revealed that none of the witnesses standing nearby recall the incident and the spectator denies saying those words.
2. A parent of a child complains that they are aware of another child in the club who has had issues of emotional stress caused by the juniors coach. The complainant refuses to identify the child or specify the alleged actions of the coach for privacy reasons. Investigations which have included contacting the parent group and seeking information and speaking with the coach, have failed to identify the child or any aspect of the coach’s practice that would amount to a breach. This is the fifth time the parent has complained about the coach; all previous complaints were unsubstantiated.



Determining whether a Breach Notice should be issued

Examples:

3. A 70 year old trainer injures his hand during a match. He asks the only other people in the change room at the time to help him with the drawstring of his pants, who he knows well and are 17 years old. Each refuse. The school where the players attend, lodge a complaint. During the course of the investigation, the trainer admits to the incident, saying he was distressed at the time and he had no one else to help him.
4. A parent complains that the coach verbally abused her in front of her 10 year old child. When questioning him about not playing her son he said “listen lady, I don’t know how many times we’ve had this discussion, quite frankly, he’s sh*& and he would be better off playing another sport”. The parent is emphatic but the coach, who you know would be out of character for him to behave that way, vehemently denies using that language. The only witness to the exchange is the child but the parent will not let him speak to the investigating officer or participate in any hearing on account that he is upset.
5. A club member alleges numerous instances of verbal and physical abuse by another club member, spanning a number of years. All incidents are unsubstantiated except for one incident where a punch was thrown ten years ago.

No Further Action

- After an investigation has been undertaken by an Investigating Officer and a report submitted, an Appointed Person may make a determination that the complaint is to be dismissed.
- In Appointed Person may make this decision for various reasons, including that the complaint is:
 - Unsubstantiated
 - Even if proved, doesn't amount to a breach or
 - Mischievous/vexatious
- If the decision is made to dismiss a complaint, the Appointed Person must write to the complaint and outline the reasons for the decision.
- The decision must also be sent through to the QRU so that the matter can be closed off in Salesforce.

Breach Notices

After an investigation has been completed by an investigating officer and a report submitted, an Appointed Person may make a determination that there is enough evidence to serve a breach notice on the respondent.

The breach notice template can be found in the Rugby AU Code of Conduct and must contain the below information:

- (a) notify the respondent of the alleged breach(es) of the Code, including the alleged conduct and the relevant section(s) of the relevant code, policy or guideline;
- (b) state the proposed sanction for the alleged breach(es) with reasons for such determination, and if applicable, any proposed discounted sanction for early admission;
- (c) state that the conduct and sanction may be publicly disclosed;
- (d) state that the respondent has a right to a hearing in relation to the alleged breach(es) and/or the proposed sanction before a Code of Conduct Committee;
- (e) state that the respondent may admit the alleged breach(es), waive their right to a hearing and accept the proposed sanction or the proposed discounted sanction (if applicable);
- (f) state that if the respondent does not respond within 14 days from the breach notice having been sent to the respondent's last known home and/or email address, they will be deemed to have admitted the alleged breach(es), waived their right to a hearing and accepted the proposed sanction;
- (g) state that any response to the breach notice must be made to the Relevant Organisation and provide the respondent with contact details for the Appointed Person; and
- (h) be provided to the complainant and any other Relevant Person and/or Relevant Organisation that the Appointed Person, acting in good faith, deems necessary and appropriate.



Sanctioning

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Sanctions

Determine the Seriousness of the Breach

Work through the factors in clause 13.2 of the Code. This step helps guide where an appropriate sanction should sit (Low / Mid / High).

- Nature and gravity of the breach, was it intentional, were the consequences foreseeable?
- Does the conduct cause offense?
- Does it impact on the integrity?
- Does it cause reputational damage?

Consider Mitigating and Aggravating Factors

Work through the factors in clause 13.4 of the Code. This step helps determine an appropriate sanction after first being guided by the seriousness.

- Acknowledgment of culpability/wrong-doing and remorse shown
- Disciplinary record and/or good character
- Conduct prior to and at the hearing
- Have Participants been put on notice about this conduct in the past (i.e. Match Official Abuse)

Determine an Appropriate Sanction

Options for such sanctions in clause 13.3 of the Code. Any sanctions should go toward maintaining and upholding Rugby AU's Core Values of Passion, Integrity, Discipline, Respect, Teamwork, protect the image and integrity of rugby and provide specific and general deterrence

- Reprimands/warnings
- To provide an apology, undertake training, education or counselling or have a suspended sanction/good behaviour bond
- Fine
- Conditions on or removal of accreditations, or deduction or cancellation of points
- Suspension or exclusion

Sanctions – Example 1

An investigation has revealed that a breach of the Code may have occurred for match official abuse, intimidation and threats.

As the match official was near the sideline, a spectator looked him in the eye and yelled “you’re a f*^ing disgrace; get your eyes checked”.

As the match official was leaving the field, the same spectator yelled at him “go home you wanker” and spat at his feet.

In the car park as the match official was walking to his car, the same spectator followed him and pointed at him and said “you better watch your back next time you show up here pretending to ref, you useless prick”.

The incident has not adversely affected the match official. The respondent has cooperated fully in the investigation and has expressed remorse for his actions. He said he had been drinking all day, was going through a tough time personally, and accepts he behaved poorly. He has a short history of verbal abuse within the club, although not against match officials.

Sanctions – Example 1

Determine the Seriousness of the Breach

Work through the factors in clause 13.2 of the Code. This step helps guide where an appropriate sanction should sit (Low / Mid / High).

- Nature and gravity of the breach, was it intentional, were the consequences foreseeable? **High**
- Does the conduct cause offense? **High**
- Does it impact on the integrity? **Mid**
- Does it cause reputational damage? **Mid**

Mid to High Level Seriousness - The nature of the breach is offensive and intentional. Given the communication around MO abuse in the game, the consequences are foreseeable. The conduct causes offence to the MO, the rugby community and it impacts on the integrity and damages the reputation of the sport.

Consider Mitigating and Aggravating Factors

Work through the factors in clause 13.4 of the Code. This step helps determine an appropriate sanction after first being guided by the seriousness.

- Acknowledgment of culpability/wrong-doing and remorse shown **Present**
- Disciplinary record and/or good character **Respondent has a history of verbal abuse and this most recent incident indicates an escalation in such behaviour**
- Conduct prior to and at the hearing **Respondent has cooperated fully with the investigation**
- Have Participants been put on notice about this conduct in the past **Yes, directives as to match official abuse, this is an aggravating factor**

Determine an Appropriate Sanction

Options for such sanctions in clause 13.3 of the Code. Any sanctions should go toward maintaining and upholding Rugby AU's Core Values of Passion, Integrity, Discipline, Respect, Teamwork, protect the image and integrity of rugby and provide specific and general deterrence

- Reprimands/warnings
- To provide an apology, undertake training, education or counselling or have a suspended sanction/good behaviour bond
- Fine
- Conditions on or removal of accreditations or awards or achievements, or deduction or cancellation of points
- Suspension or exclusion – **Most appropriate on its own or in combination with a requirement to provide an apology**

Sanctions – Example 2

An investigation has revealed that a breach of the Code may have occurred for physical assault.

At the club bar after a match, long-term club members Joe and Paul are drinking. Joe made offensive remarks about Paul's wife to Paul and Paul asked him to stop. Joe continued and stated "you know, she used to be a knock-out in her day, but now I wouldn't touch her with a barge pole – better you than me mate".

Paul went to walk away. The area was crowded and as he left, he brushed shoulders with Joe. Joe pushed Paul which caused Paul to stumble. Paul turned around and punched Joe in the face who fell back and broke a table and glasses. The incident occurred in view of children.

Joe sustained a bruised eye and no other injuries. First aid was provided to Joe. The Police were not called as Joe did not want to make a complaint. He also did not want to make a complaint to the Club, however, the Club initiated the complaint management process on its own motion. Paul has cooperated fully in the investigation, has expressed remorse for his actions and apologised to Joe. Paul said he had been drinking but was not drunk. He described it as a "brain snap" moment after being worked up by Joe. He has no prior history of violence at the club.

Sanctions – Example 2

Determine the Seriousness of the Breach

Work through the factors in clause 13.2 of the Code. This step helps guide where an appropriate sanction should sit (Low / Mid / High).

- Nature and gravity of the breach, was it intentional, were the consequences foreseeable? **Mid/High**
- Does the conduct cause offense? **High**
- Does it impact on the integrity? **Mid**
- Does it cause reputational damage? **Mid**

Mid Level Seriousness – Physical abuse is serious and the gravity is heightened as it occurred in view of children. Integrity and reputational damage are mid-range as the incident reflects poorly on the Club as an unsafe place, for families in particular. Seriousness would be higher had the injuries been more severe. Provocation is not a justification to reduce seriousness – Paul's actions were disproportionate and unacceptable.

Consider Mitigating and Aggravating Factors

Work through the factors in clause 13.4 of the Code. This step helps determine an appropriate sanction after first being guided by the seriousness.

- Acknowledgment of culpability/wrong-doing and remorse shown **Present**
- Disciplinary record and/or good character **Clean history**
- Conduct prior to and at the hearing **Respondent has cooperated fully with the investigation**
- Have Participants been put on notice about this conduct in the past **No**

Strong mitigating factors, lack of aggravating factors

Determine an Appropriate Sanction

Options for such sanctions in clause 13.3 of the Code. Any sanctions should go toward maintaining and upholding Rugby AU's Core Values of Passion, Integrity, Discipline, Respect, Teamwork, protect the image and integrity of rugby and provide specific and general deterrence

- Reprimands/warnings To provide an apology, undertake training, education or counselling or have a suspended sanction/good behaviour bond
- Fine
- Conditions on or removal of accreditations or awards or achievements, or deduction or cancellation of points
- Suspension or exclusion

Trigger and content warning

This next example deals with incidents of sexual harassment and assault which some individuals may find distressing.



Sanctions – Example 3

An investigation has revealed that a breach of the Code may have occurred for sexual harassment and assault.

The investigation followed a number of complaints about the women's coach and his use of offensive language in training drills to the team at large, including terms like "tits out, arse up".

During the course of the investigation, evidence was obtained that suggests that the coach makes sexual and suggestive comments towards one of the players in the particular, Amanda. He would often walk Amanda to her car after training and has made comments that he would like to follow her home. He has texted her on numerous occasions, often late at night, her asking her to attend social events with him and she declines.

Amanda has stated that after one training session, he followed her into the changeroom alone where he approached her. He came up behind her and stroked her hair and pressed his body against hers. He proceeded to ask her on a date. When she declined, he became aggressive. She left the room and joined the rest of the team.

At the end of season club function, he cornered her on her own and apologised for what occurred in the changeroom. He said he was upset that she had rejected him because he really liked her. He asked her to reconsider and placed his hand up under her skirt and brushed her genital area. She immediately left the venue. Witnesses recall that later that night, he made offensive comments about her to others in attendance saying "don't go near that one, she's frigid. I've tried fellas – lesbian".

The coach does not admit any of the allegations. He has a clean disciplinary record and is a strong club person. He has cooperated fully with the investigation. Amanda has left the Club and joined a different sport so as to reduce the risk of running into him. She has not made a complaint to the Police. She raised the concerns with the Club but does not want to take the matter further.

Sanctions – Example 3

Determine the Seriousness of the Breach

Work through the factors in clause 13.2 of the Code. This step helps guide where an appropriate sanction should sit (Low / Mid / High).

- Nature and gravity of the breach, was it intentional, were the consequences foreseeable? **High**
- Does the conduct cause offense? **High**
- Does it impact on the integrity? **High**
- Does it cause reputational damage? **High**

High Level Seriousness – Sexual harassment and assault is serious. The gravity of the breach is heightened due to the power imbalance that exists between a coach and player. Integrity and reputational damage are high-level as the incident reflects poorly on the Club as an unsafe place, for women in particular.

Consider Mitigating and Aggravating Factors

Work through the factors in clause 13.4 of the Code. This step helps determine an appropriate sanction after first being guided by the seriousness.

- Acknowledgment of culpability/wrong-doing and remorse shown **Not present**
- Disciplinary record and/or good character **Present**
- Conduct prior to and at the hearing **Respondent has cooperated fully with the investigation**
- Have Participants been put on notice about this conduct in the past **No**

Some mitigating factors

Determine an Appropriate Sanction

Options for such sanctions in clause 13.3 of the Code. Any sanctions should go toward maintaining and upholding Rugby AU's Core Values of Passion, Integrity, Discipline, Respect, Teamwork, protect the image and integrity of rugby and provide specific and general deterrence

- Reprimands/warnings To provide an apology, undertake training, education or counselling or have a suspended sanction/good behaviour bond
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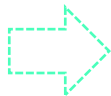


Convening a Committee Hearing

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Code of Conduct Panel
established by the
Relevant Organisation



Code of Conduct Committee appointed

- 3 members of the CoC Panel
- Chairperson
- Independent, impartial, fair

HEARING SUMMARY

Issue a hearing notice to the Relevant Person or
Organisation to attend the hearing

All Relevant Persons or Organisations must be given
the opportunity to produce evidence, submissions
and attending the hearing

Committee makes a determination:

An alleged breach of the
Code has been proven &
sanction imposed

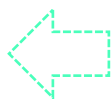
Alleged breach of the Code
has not been proven

Advised to the parties including
the complainant in writing

Advised to the parties
including the complainant
in writing and advise of
right of appeal

Sanctioning Process

- Consider the factors in
Clause 13.2 of the Code to
determine the seriousness of
the breach
- Consider the aggravating
and/or mitigating facts in
Clause 13.4 of the Code in
determining the sanction





Questions?

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