



# NATIONAL MEMBER PROTECTION POLICY

## REVIEW HISTORY OF BMXA MEMBER PROTECTION POLICY

Amended	1 October 2014
Amended	1 October 2015
Amended	7 July 2017

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## PREFACE

BMX Australia (**BMXA**) is committed to the health, safety and general well-being of all its members and supporters. BMXA is dedicated to providing a safe, friendly and prosperous environment for members and providers participating in any BMXA activities.

Our organisation greatly values the social and cultural significance of sport for individuals and for the community. We all have the right to enjoy our sport, at whichever level and in whatever capacity we participate.

As an organisation, we are determined to be a leader in ensuring harassment-free and non-discriminatory practices are implemented for the diverse range of all our riders, coaches, officials, administrators, volunteers and supporters.

This policy is supported by Member Protection Policies that have been adopted and implemented by our member associations and affiliated clubs.

I commend this Member Protection Policy to you and hope that you are inspired to reach your potential in BMX in a safe and enjoyable manner.

Neil Cameron  
President  
7 July 2017

# BMX AUSTRALIA LTD

## PART A: NATIONAL MEMBER PROTECTION POLICY

### 1. Introduction

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BMX Australia (**BMXA, our or we**) is the peak body for the sport of bicycle motocross (**BMX**) in Australia with objects, amongst other things, to provide for the encouragement, conduct, promotion, control and administration of BMX throughout Australia.

A central goal of BMXA is to develop the sport of BMX throughout Australia and internationally for the safety and enjoyment of its participating members.

BMXA is committed to providing a sport and work environment free of harassment and discrimination. BMXA aims to ensure the core values, good reputation and positive behaviours and attitudes of BMXA are maintained. BMXA believes that anyone who works for it, and everyone with whom it deals, has the right to be treated with respect and dignity. BMXA will not tolerate any type of behaviour, which will bring the sport of BMX into disrepute, and this policy is an essential part of BMXA's proactive and preventative approach to tackling inappropriate behaviour. BMXA will therefore take all complaints seriously, and will ensure they are dealt with promptly, sensitively and with confidentiality.

BMXA is committed to ensure that everyone associated with the organisation complies with this policy.

### 2. Purpose of this policy

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This National Member Protection Policy ("**policy**") aims to assist BMXA 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. This policy also seeks to ensure that everyone involved in our sport is aware of his or her key legal and ethical rights and responsibilities, as well as the standards of behaviour that are 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 BMXA to take disciplinary action against any person or organisation bound by this policy if they breach the policy.

This policy has been endorsed by the Board of BMXA and has been incorporated into our Regulations in accordance with rule 40 of the BMXA Constitution. The policy commences with effect on 1st of October 2015 and will operate until replaced. This policy and/or its attachments may be amended from time to time by a resolution of the Board in accordance with the BMXA Constitution. Copies of the policy and its attachments can be obtained from our office, or website at [www.bmxaustralia.com.au](http://www.bmxaustralia.com.au).

This policy has been based on the Australian Sports Commission (ASC) template and has been approved by the ASC.

State, Regional, Zone and other affiliated associations and clubs should formally adopt the national policy and modify it as needed based on their particular circumstances and state or territory legislative requirements.

For information on the rights, responsibilities and requirements for people involved in our sport at the Member State and Club level, please refer to the member protection policies of the relevant Member State or Club.

### **3. Who this policy Applies To**

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This policy should apply to all who are involved with the activities of BMXA, whether they are in a paid or unpaid/voluntary capacity and including following organisations and individuals:

- BMXA;
- BMXA Members;
- persons appointed or sitting on boards, committees and sub-committees of BMXA or BMXA Members;
- employees, officials and volunteers appointed or elected by BMXA or a BMX Member;
- support personnel (e.g. managers, physiotherapists, psychologists, masseurs, sport trainers);
- coaches (including assistant coaches) who:
  - are appointed and/or employed by BMXA or BMXA Members (whether paid or unpaid);or
  - have an agreement (whether or not in writing) with BMXA or BMXA Members;
- Licensed members who enter or participate in any activity or event (including camps and training sessions) which are held or sanctioned by BMX or a BMXA Member;
- Any person or organisation, who or which is a member of, or affiliated to, BMXA or a BMXA Member;
- Any other person or organisation who, or which agrees in writing or otherwise to be bound by this policy; and
- Parents, guardians, spectators and sponsors to the full extent that is possible.

This policy will continue to apply to a person even after they have stopped their association or employment with BMXA if disciplinary action against that person has commenced.

### **4. Responsibilities of the Organisation**

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#### **4.1 BMXA must:**

- Adopt, implement and comply with this policy;
- Ensure that this policy is enforceable;
- Publish, distribute and promote this policy and the consequences of any breaches of this policy;
- Promptly deal with any complaints made under this policy in an appropriate manner;
- Apply this policy consistently;
- Recognise and enforce any penalty imposed under this policy;
- Ensure that a copy of this policy is available or accessible to the persons and associations to whom this policy applies;
- Use appropriately trained people to receive and manage complaints and allegations; and
- Monitor and review this policy at least annually.

#### **4.2 Member States, Regions, Zones and Clubs must:**

- adopt, implement and comply with this policy;
- ensure that the Constitution, By-laws or other rules and policies include the necessary clauses for this policy to be enforceable
- publish, distribute and otherwise promote this policy and the consequences of any breaches of this policy;
- promote and model appropriate standards of conduct at all times;
- promptly deal with any breaches of or complaints made under this policy in an appropriate and confidential manner;
- apply this policy consistently without fear or favour;

- recognise and enforce any penalty imposed under this policy; and
- ensure that a copy of this policy is available or accessible to all persons to whom this policy applies.
- use appropriately trained people to receive and manage complaints and allegations of inappropriate behavior [e.g. Member Protection Information Officers]
- monitor and review club and state member protection policies at least annually.

## 5. Individual Responsibilities

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Individuals bound by this policy must:

- Make themselves aware of the contents of this policy;
- Comply with all the 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;
- Consent to the screening requirements set out in this policy and any state/territory 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;
- Place the safety and welfare of children above other considerations;
- Be accountable for their behaviour; and
- Comply with any decisions and/or disciplinary measures imposed under this policy.

## 6. Position Statements

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### 6.1 Children Protection

BMXA is committed to the safety and wellbeing 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 a child-safe environment is maintained at all times. We also support the rights and wellbeing of our staff and volunteers and encourage their active participation in building and maintaining a secure environment for all participants.

BMXA acknowledges that our staff, members and volunteers provide a valuable contribution to the positive experiences of children involved in our sport. BMXA aims to continue this and to take measures to protect the safety and welfare of children participating in our sport by:

#### 6.1.1: Identify and Analyse Risk of Harm

BMXA will develop and implement a risk management strategy, which includes a review of existing child protection practices, to determine how child-safe and child-friendly the organisation is and to determine what additional strategies are required to minimise and prevent risk of harm to children because of the action of an employee, volunteer or another person.

#### 6.1.2: Develop Codes of Conduct for Adults and Children

BMXA will ensure that the organisation has codes of conduct that specify standards of conduct and care when dealing and interacting with children, particularly those in the organisation's care. The organisation will also implement a code of conduct to address appropriate behaviour between children.

The code of conduct will set out professional boundaries, ethical behaviour and unacceptable behaviour. (See Part B)

#### 6.1.3: Choose Suitable Employees and Volunteers

BMXA will ensure that the organisation takes all reasonable steps to ensure that it engages the most suitable and appropriate people to work with children (in prescribed positions).

This may be achieved using a range of screening measures. Such measures will aim to minimise the likelihood of engaging (or retaining) people who are unsuitable to work with children.

BMXA will ensure that working with children checks/criminal history assessments are conducted for employees and volunteers working with children, where an assessment is required by law.

If a criminal history report is obtained as part of their screening process, the BMXA will ensure that the criminal history information is dealt with in accordance with relevant state requirements. (See Part C)

#### **6.1.4: Support, Train, Supervise and Enhance Performance**

BMXA will ensure that volunteers and employees who work with children or their records have ongoing supervision, support and training such that their performance is developed and enhanced to promote the establishment and maintenance of a child-safe environment in our sport.

#### **6.1.5: Empower and Promote the Participation of Children In Decision-Making And service Development**

BMXA will promote the involvement and participation of children and young people in developing and maintaining child-safe environments.

#### **6.1.6: Report and Respond Appropriately To Suspected Abuse and Neglect**

BMXA will ensure that volunteers and employees are able to identify and respond to children at risk of harm.

BMXA will make all volunteers and employees aware of their responsibilities under respective state laws if they have suspicion on reasonable grounds that a child has been or is being abused or neglected. (See Part E)

In addition to any legal obligation, if any person feels another person or organisation bound by this policy is acting inappropriately towards a child or is breaching the code(s) of practice set out they may make an internal complaint to us. Please refer to our complaints procedure outlined in attachment D1 of this policy. This will explain what to do about the behavior and how the BMXA will deal with the problem.

### **6.2 Taking Images of Children**

There is a risk that images of children may be used inappropriately or illegally. BMXA 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 and ensure that the parent knows the way the image will be used. We also require the privacy of others to be respected and disallow the use of camera phones, videos and cameras inside changing areas, showers and toilets which we control or are used in connection with our sport.

If BMXA uses an image of a child it will avoid naming or identifying the child or it will, wherever possible, avoid using both the first name and surname. We will not display personal information such as residential address, email address or telephone numbers without gaining consent from the child's parent/guardian. We will not display information about hobbies, likes/dislikes, school, etc as this information can be used as grooming tools by pedophiles or other persons.

We will only use appropriate images of a child, relevant to our sport and ensure that the child is suitably clothed in a manner that promotes the sport, displays its successes, etc. Where possible we will seek permission to use these images. We require our Members, Member States and Clubs to do likewise.

### **6.3 Anti-Discrimination and Harassment**

BMXA 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 of this policy).

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 D1 of this policy).

## **6.4 Intimate Relationships**

BMXA 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, favoritism or exploitation.

BMXA take the position that consensual intimate relationships between coaches and the adult athletes that they coach should be avoided as these relationships can have harmful effects on the individual athlete involved, on other athletes and coaches, and on the sport's public image. Such relationships



may be intentionally or unintentionally exploitative due to a disparity between coaches and athletes in terms of authority, power, maturity, status, influence and dependence.

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 age and social maturity of the athlete, any potential vulnerability of the athlete, any financial or emotional dependence of the athlete on the coach or official, the ability of the coach or official to influence the profess, 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 any 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 MPIO 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. Action may include transfer, a request for resignation or dismissal from coaching duties.

If the official or athlete believes that they are being, or have been, harassed they are encouraged to seek information and support from the MPIO. Our complaints procedure is outlined in Attachment D1 of this policy.

## **6.5 Pregnancy**

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

While many sporting activities are safe for pregnant women, there may be particular risks that apply to some women during pregnancy. Those risks will depend on the nature of the sporting activity and the particular pregnant woman's circumstances. BMXA will take reasonable care to ensure the continuing safety, health and well-being 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 are of utmost importance in their decision making about the way they participate in our sport.

BMXA recommends that pregnant women wanting to participate in our sport consult with their medical advisers, make themselves aware of the facts about pregnancy in sport, and ensure that they make informed decisions about participation. Pregnant women should make these decisions themselves, in consultation with their medical advisers and in discussion with BMXA. We will only require pregnant women to sign a disclaimer in relation to their participation in our sport whilst they are pregnant if we require all other participants 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 transsexual, transgender and gender diverse.

### **6.6.1 Gender identity discrimination and harassment**

Federal, state and territory anti-discrimination laws provide protection from discrimination against people on the basis of their gender identity. (See definition in Dictionary of terms).

BMXA 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 gender identity.

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 discrimination or harassment of a person because of their gender identity. This includes discrimination or harassment of a person who is transgender or transsexual, who is assumed to be transgender or transsexual or has an association with someone who has or is assumed to be transgender or transsexual. (Refer to the attachments in Part D of this policy).

BMXA expects 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**

BMXA recognises that the exclusion of people from participation in sporting events and activities because of their gender identity may have significant implications for their health, well-being and involvement in community life. We are committed to supporting participation in our sport on the basis of the gender with which each person identifies.

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

BMXA is aware that the International Olympic Committee (**IOC**) has established criteria for selection and participation in the Olympic Games. Where a transgender person intends competing at an elite level, we will encourage them to obtain advice about the IOC's criteria which may differ from the position taken by BMXA.

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).

BMXA 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

BMXA is committed to conducting sporting and social events in a manner that promotes the responsible service and consumption of alcohol. We also recommend that Member States, Regions and 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 committee member or 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; and
- safe transport options be promoted as part of any event we hold or endorse where alcohol is served.

Further guidance on developing a responsible service and consumption of alcohol policy is available at: [www.playbytherules.net.au/resources/club-toolkit](http://www.playbytherules.net.au/resources/club-toolkit).

## 6.8 Smoke-free environment

BMXA 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 (including the use of electronic cigarettes) at or near any sporting event or competition involving persons under the age of 18. This policy shall apply to coaches, players, trainers, officials and volunteers;
- Social functions shall be smoke free, with smoking permitted at designated outdoor smoking areas; and
- Coaches, officials, trainers, volunteers and players will refrain from smoking while involved in an official capacity for any of the BMXA, SSO, Club or representative team, on and off the field.

Clubs and States should check and adhere to the legislation relevant to their state.

## 6.9 Bullying

BMXA 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.

BMXA will not tolerate abusive, discriminatory, intimidating or offensive statements being made online.

Frustration at a referee, team-mate, coach, or sporting body should never be communicated on social network channels, but rather by way of reasoned and logical verbal and written statements and where appropriate, complaints, 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

BMXA 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 and Twitter.

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 social networking policy is available at:  
[www.playbytherules.net.au/resources/club-toolkit](http://www.playbytherules.net.au/resources/club-toolkit).

## 7. Complaints Procedures

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### 7.1 Handling Complaints

BMXA aims to provide a simple procedure for complaints based on the principles of procedural fairness. Any person (**a complainant**) may report a complaint about a person/s 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. Such complaints should be reported to the MPIO.

A complaint should be dealt with at the relevant level. Therefore, if a complaint relates to behaviour or an incident that occurred at the:

- 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.

- 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; or

For the avoidance of doubt, notwithstanding any other clause in this policy, where a complaint is made relating to behaviour or an incident that occurs at the state or club level, any references to the MPIO or Tribunal in any procedure outlined in this policy should be read as the relevant State or club MPIO or tribunal of the relevant State or club as the case may be.

Only matters that relate to or occur at the national level and the most serious cases from club and state level should be referred to the national body.

A complaint may be dealt with informally or formally. The complainant may indicate his or her preferred option and the MPIO or other relevant person inside the State Association or Affiliated Club should consider whether that is an appropriate way to handle the particular complaint. For example, the law may require the complaint/allegation to be reported to an appropriate authority.

All complaints will be dealt with promptly, seriously, sensitively and confidentially. BMXA's complaint procedures are outlined in attachment D1.

Individuals and organisations may also pursue their complaint externally under anti-discrimination, child protection, criminal or other relevant legislation.

## ***7.2 Improper Complaints & Victimisation***

BMXA aims for our complaints procedure to have integrity and be free of unfair repercussions or victimisation against the person making the complaint. If at any point in the complaints process the MPIO considers that a complainant has **knowingly** made an untrue complaint or the complaint is malicious or intended to cause distress to the person complained of, the matter may be referred to the relevant person or tribunal for appropriate action which may include disciplinary action against the complainant.

BMXA will take all necessary steps to make sure that people involved in a complaint are not victimised. Disciplinary measures can be imposed on anyone who harasses or victimises another person for making a complaint.

## ***7.3 Mediation***

BMXA 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.

Mediation 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 relevant official (i.e. the MPIO) will, where he/she determines it to be appropriate, arrange for a neutral third party mediator where possible. We will not allow lawyers to negotiate on behalf of the complainant and/or the respondent.

More information on the mediation process is outlined in attachment D2.

## ***7.4 Tribunals***

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

A tribunal may be formed to hear a formal Complaint that has been referred by MPIO, or an alleged breach of the policy. Procedures for a tribunal established to hear a complaint made under this policy are set out in Attachment D4.

The CEO has discretion to determine whether a Complaint or allegation is to be:

- referred to the tribunal described under this policy; or
- not suitable for referral to a tribunal.

## 8. What is a Breach of this policy

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

- Breaching the Code of Conduct (attachment B to this policy);
- Bringing the sport and/or BMXA into disrepute, or acting in a manner likely to bring the sport and/or BMXA into disrepute;
- Failing to follow BMXA policies (including this policy) and procedures for the protection, safety and welfare of children;
- Discriminating against, harassing or bullying (including cyber bullying) any person;
- Victimising another person for making or supporting a complaint;
- Engaging in an inappropriate intimate relationship with a person that they supervise, or have influence, authority or power over;
- Verbally or physically assaulting another person, intimidating another person or creating a hostile environment within the sport;
- Disclosing to any unauthorised person or organisation any BMXA information that is of a private, confidential or privileged nature;
- Making a complaint they knew to be untrue, vexatious, malicious or improper;
- Failing to comply with a penalty imposed after a finding that the individual or organisation has breached this policy; and
- Failing to comply with a direction given to the individual or organisation during the discipline process.

## 9. Disciplinary Measures

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### 9.1 Objectives

If an individual or organisation to which this policy applies breaches this policy, one or more forms of discipline may be imposed. Any disciplinary measure imposed under this policy must:

- Be applied consistently with any contractual and employment rules and requirements;
- Be fair and reasonable;
- Be based on the evidence and information presented and the seriousness of the breach; and
- Be determined in accordance with BMXA's Constitution, By Laws, this policy and/or Rules of the sport of BMX.

### 9.2 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 make 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 the BMXA;
- A demotion or transfer of the individual to another location, role or activity;
- A suspension of the individual's membership or participation or engagement in a role or activity;
- Termination of the individual's membership, appointment or engagement;
- A recommendation that the BMXA 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; and/or
- Any other form of discipline that the designated person or tribunal considers appropriate.

### 9.3 Organisation

If a finding is made that the State Association, Region or Affiliated Club has breached its own or this national policy, one or more of the following forms of discipline may be imposed by a designated person or Tribunal:

- A written warning;
- A fine;
- A direction that any rights, privileges and benefits provided to that organisation by BMXA or relevant constituted association be suspended for a specified period;
- A direction that any funding granted or given to it by the cease from a specified date;
- A direction that BMXA or the relevant Constituted Association cease to sanction events held by or under the auspices of that organisation;
- A recommendation to BMXA or the relevant Constituted Association that its membership of BMXA be suspended or terminated in accordance with the relevant constitution or rules; and/or
- Any other form of discipline that the designated person or Tribunal considers to be reasonable and appropriate.

#### **9.4 Factors to consider**

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

- Nature and seriousness of the breach;
- If the person knew or should have known that the behaviour was a breach;
- Level of contrition;
- The effect of the proposed disciplinary measures on the person including any personal, professional or financial consequences;
- If there have been relevant prior warnings or disciplinary action;
- Ability to enforce discipline if the person is a parent or spectator (even if they are bound by the policy); and/or
- Any other mitigating or relevant circumstances.

## **10. Dictionary**

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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. State/Territory specific definitions and more detail on some of the words in this dictionary can be sourced from the relevant State/Territory child protection commissions 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 systematic abuse.

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

**Child abuse** involves conduct which puts children at risk of harm (usually by adults, sometimes by other children) and often by those they know and trust. It can take many forms, including verbal and physical actions and by people failing to provide them with basic care. Child abuse may include:

- **Physical abuse**, which occurs when a child has suffered or is at risk of suffering, non-accidental 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 adolescence 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.

**Club** means any Club recognised as such under the BMXA Constitution.

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

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

**Complaint Handler/Manager** means a person appointed under this policy to investigate a Complaint

**Discrimination** occurs when someone is 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 a rule, policy or practice disadvantages (or is likely to disadvantage) one group of people in comparison with others, even though it appears to treat all people the same.

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

- Age;
- Defence service;
- Disability, mental and physical impairment;
- Family/carer responsibilities, status as a parent or carer;
- Homosexuality and sexual orientation;
- Irrelevant medical record;
- Irrelevant criminal record, spent convictions;
- Lawful sexual activity;
- Marital status;
- Member of association or organisation of employees or employers, industrial activity, trade union activity;
- National extraction or social origin;
- Physical features;
- Political beliefs or activities;
- Pregnancy, potential pregnancy and breastfeeding;
- Profession, trade, occupation or calling;
- Race, colour, descent, national or ethnic origin, nationality, ethno-religious origin, immigration;;
- Religious belief/activity;
- Sex or gender;
- Sexual orientation and gender identity;
- Intersex status;
- 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 group (eg only those who are under the age of 15 years);
- excluding people on the basis of their 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 reasonable 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 laws, 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 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 a member of BMXA under the BMXA Constitution (including the Member States, Life Members, Regions, Clubs, Individual Members and Associate Members).

**Member Protection Information Officer (MPIO)** means a person appointed by BMXA to be the first point of contact for a person reporting a complaint under, or a breach of, this policy. The MPIO provides impartial and confidential support to the person making the complaint.

**Member State** means any entity recognised under the BMXA Constitution to administer BMX in a particular state or territory.

**Procedural Fairness** requires that:

- the Respondent knows the full details of what is being said against them and have the opportunity to respond;
- no person may judge their own case; and
- the decision maker/s must be unbiased, fair and just.

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

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

**Region** means a region or zone affiliated with a Member State.

**Respondent** means the person who is being complained about.

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

**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, display 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 including but not limited to (due to differences under state/territory legislation):

- 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** 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 unfavourably or threatening to do so because that person has or intends to pursue their rights to make any complaint including a complaint under government legislation (e.g. anti-discrimination legislation) or under this policy, or for supporting such a person.

**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 persons 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

**NOTE: Additional obligations may apply under relevant/applicable state or territory anti-discrimination laws.**

# PART B: CODES OF BEHAVIOUR

## BMX AUSTRALIA CODE OF CONDUCT

### 1. PURPOSE

The purpose of the BMX Australia (**BMXA**) Code of Conduct (Code) is to describe the type of behaviour BMXA is seeking to promote and encourage its members and supporters to adopt.

### 2. GOVERNANCE

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

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

### 3. KEY PRINCIPLES

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

### 4. KEY ELEMENTS

All persons who are bound by this code shall:

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

## 5. UNACCEPTABLE BEHAVIOUR

This list that follows provides examples of behaviour deemed to be unsuitable and not in the best interests of the sport of BMX:

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

## **PART C: WORKING WITH CHILDREN CHECK REQUIREMENTS**

Child protection is about keeping children safe from harm/abuse. Child abuse is illegal, and all states and territories have their own systems and laws that cover screening and/or the reporting and investigation of cases of child abuse.

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

Working with Children Check (**WWCC**) laws aim to prevent people who pose a risk from working with children as paid employees or volunteers. State/territory laws require individuals involved in areas such as sport and recreation to undertake a check to determine their suitability to work (in a paid or volunteer capacity) with children. This is done by checking certain criminal history and other matters. In some states/territories this also involves reviewing relevant findings from disciplinary proceedings. There are also requirements placed on organisations.

BMXA, including our state associations and clubs, will meet the requirements of the relevant state or territory Working with Children Check laws

The following attachments provide:

- summary information on state and territory WWCC requirements and where to obtain more information and relevant forms
- our Member Protection Declaration (for all states/territories except NSW who must complete a Prohibited Employment Declaration provided by the NSW Commission for Children and Young People)



## Attachment C1: MEMBER PROTECTION DECLARATION

BMXA has a duty of care to all those associated with our organisation and our sport at the national level and to the individuals and organisations to whom our Member Protection Policy applies. As a requirement of our Member Protection Policy, BMXA must enquire into the background of those who undertake any work, coaching or regular unsupervised contact with people under the age of 18 years.

I ..... (name) of .....

..... (address) born ...../...../.....

sincerely declare:

1. I do not have any criminal charge pending before the courts.
2. I do not have any criminal convictions or findings of guilt for sexual offences, offences related to children or acts of
3. I have not had any disciplinary proceedings brought against me by an employer, sporting organisation or similar body involving child abuse, sexual misconduct or harassment, other forms of harassment or acts of violence
4. I am not currently serving a sanction for an anti-doping rule violation under an ASADA approved anti-doping policy applicable to me.
5. I will not participate in, facilitate or encourage any practice prohibited by the World Anti-Doping Agency Code or any other ASADA approved anti-doping policy applicable to me.
6. To my knowledge there is no other matter that BMXA may consider to constitute a risk to its members, employees, volunteers, athletes or reputation by engaging me.
7. I will notify the CEO of the organisation(s) engaging me immediately upon becoming aware that any of the matters set out in clauses 1 to 6 above has changed.

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

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

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

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

Name:.....

Signature:.....

Date: .....

# ATTACHMENT C2: WORKING WITH CHILDREN CHILD PROTECTION REQUIREMENTS

Working with Children Checks aim to create a child-safe environment and to protect children and young people involved in our sport from physical and sexual harm.

They assess the suitability of people to work with children and young people and can involve:

- criminal history checks
- signed declarations
- referee checks, and
- other relevant background checks to assess a person's suitability to work with children and young people.

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

Detailed information, including the forms required to complete a Working with Children Check, are available from the relevant agencies in each state and territory.

## **Australian Capital Territory**

Contact the Office of Regulatory Services

Website: [www.ors.act.gov.au/community/working\\_with\\_vulnerable\\_people\\_wwvp](http://www.ors.act.gov.au/community/working_with_vulnerable_people_wwvp)

Phone: 02 6207 3000

## **New South Wales**

Contact the Office of the Children's Guardian

Website: [www.kidsguardian.nsw.gov.au/check](http://www.kidsguardian.nsw.gov.au/check)

Phone: 02 9286 7276

## **Northern Territory**

Contact the Northern Territory Screening Authority

Website: [www.workingwithchildren.nt.gov.au](http://www.workingwithchildren.nt.gov.au)

Phone: 1800 SAFE NT (1800 723 368)

## **Queensland**

Contact the Public Safety Business Agency about the "Blue Card" system.

Website: [www.ccypcg.qld.gov.au](http://www.ccypcg.qld.gov.au)

Phone: 1800 113 611

## **South Australia**

Contact the Department for Education and Child Development for information

Website: [www.families.sa.gov.au/childsafes](http://www.families.sa.gov.au/childsafes)

Phone: 08 8463 6468

National Police Check: [www.police.sa.gov.au/services-and-events/apply-for-a-police-record-check](http://www.police.sa.gov.au/services-and-events/apply-for-a-police-record-check)

DCSI Child Related Work Screening: <http://www.dcsi.sa.gov.au/services/screening>

## **Tasmania**

Contact the Department of Justice about the working with children registration system that is being phased in

Website: [www.justice.tas.gov.au/working\\_with\\_children](http://www.justice.tas.gov.au/working_with_children)

Phone: 1300 13 55 13

## **Victoria**

Contact the Department of Justice

Website: [www.workingwithchildren.vic.gov.au](http://www.workingwithchildren.vic.gov.au) Phone: 1300 652 879

## **Western Australia**

Contact the Department for Child Protection

Website: [www.checkwwc.wa.gov.au](http://www.checkwwc.wa.gov.au)

Phone: 1800 883 979



**Travelling to other states or territories**

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 for children check, you will need to check the relevant requirements of that state or territory.

# PART D: COMPLAINT HANDLING PROCEDURES

## Attachment D1: COMPLAINTS PROCEDURE

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BMXA 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 if 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 APPROACHES

#### 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

Talk with BMXA's MPIO if:

- step 1 (above) is not appropriate;
- you are not sure how to handle the problem by yourself;
- you want to talk confidentially about the problem with someone and obtain more information about what you can do to address your concern; or
- the concern continues after you tried to approach the person or people involved.

The names and contact details for BMXA's MPIOs are available at [www.bmxaustralia.com.au](http://www.bmxaustralia.com.au)

The MPIO or nominee 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 so wish;
- refer you to an appropriate person (e.g. 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 work out your own resolution (with or without a support person such as an MPIO); or
- to seek a mediated resolution with the help of a third person (such as a mediator); or
- to resolve the matter through the formal approach.

## FORMAL APPROACHES

### Step 4: Making a Formal complaint

If your complaint is not resolved or informal approaches are not appropriate or possible, you may:

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

On receiving a formal complaint and based on the material you have provided, the MPIO will decide whether:

- they are the most appropriate person to receive and handle the complaint;
- the nature and seriousness of the complaint warrants a formal resolution procedure;
- to refer the complaint to **mediation**;
- to take no further action because the complaint is improper, insignificant or vexatious, or has been adequately dealt with through informal or other processes;
- to appoint a person to **investigate** (gather more information on) the complaint;
- to refer the complaint to a **hearings tribunal** under this policy and described in Attachment D4;
- 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 set out in these Procedures is completed.

In dealing with your formal complaint outlined above, the MPIO will take into account:

- whether they have 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 the manner in which the complaint should be handled;
- the relationship between you and the respondent (for example an actual or perceived power imbalance between you and the respondent);
- the views of any other person who might have been subjected to the alleged improper conduct of the respondent (including for example the athlete in circumstances where another person has made a complaint on their behalf);
- whether the facts of the complaint are in dispute; and
- the urgency of the complaint, including the possibility that you will be subject to further unacceptable behaviour while the complaint process is underway.

If the MPIO is the appropriate person to handle the complaint they will, where appropriate and/or necessary:

- provide the information they have received from the complainant to the respondent and ask for a response;
- decide if they have 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. This action may include not taking any further action, referring the matter for investigation or referring the matter for disciplinary action in accordance with this policy. Such decision is to be made at the MPIO's sole discretion.

### Step 5: Investigation of 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 the MPIO who will determine what further action to take.

- 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 MPIO reconsider the complaint in accordance with **Step 4**.

#### **Step 7: Documenting the resolution**

The MPIO will document the complaint, the process and the outcome. This document will be stored in a confidential and secure place. If the complaint was dealt with at a state/district level, the information will be stored in the state association office. If the matter is of a serious nature, or if the matter was escalated to and/or dealt with at the national level, the information will be stored at the national office with a copy stored at the state office.

#### **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 complaints. 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 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 legal representation, particularly if the complaint goes to a formal hearing.

**Contact details for the state and territory anti-discrimination and equal opportunity commissions** are available on the Play by the Rules website:  
<http://www.playbytherules.net.au/resources/quick-reference-guide>.

**NOTE: 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 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 MPIO will appoint an appropriate mediator to help resolve the complaint. This will be done under the direction of BMXA 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 BMXA 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 MPIO to request that the MPIO 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.

## **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, as well as possible findings and recommendations.

Any investigation that we conduct will be fair to all people involved and 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 clarifying terms of engagement and roles and responsibilities.
2. The investigator may:
  - Interview the complainant and record the interview in writing.
  - Convey full details of the complaint to the respondent (s) so that they can respond.
  - Interview the respondent to allow them to answer the complaint, and record the interview in writing.
  - Obtain statements from witnesses and 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); and/or
    - mischievous, vexatious or knowingly untrue.
  - Provide a report to the MPIO documenting the complaint, investigation process, evidence, finding 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 keypoints from the investigation.
4. The complainant and the respondent(s) will be entitled to support throughout this process from their chosen support person/adviser.

## **Attachment D4: TRIBUNAL PROCEDURES**

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The BMX Australia Disciplinary Regulations (**Disciplinary Regulations**) will be followed for hearings and appeals in relation to national member protection related complaints. The Disciplinary Regulations are established by the BMXA Board under rules 13 and 26 of the BMXA Constitution and were approved on 31 August 2013 and amended on 29 August 2014. The Disciplinary Regulations are binding on BMXA and all members of BMXA.

A copy of the Disciplinary Regulations is available on the BMXA website.

For the avoidance of doubt, whilst all hearing and appeals in relation to national member protection related complaints will be held in accordance with the Disciplinary Regulations, the respondent(s) will be allowed to participate in all BMXA activities and events, pending the decision of the Disciplinary Tribunal, including any available appeal process, unless the MPIO believes it is necessary to exclude the respondent(s) from all or some BMXA activities and events, after considering the nature of the complaint.

**PART E – ATTACHMENTS: REPORTING DOCUMENTS**

**ATTACHMENT E1: RECORD OF INFORMAL COMPLAINT**

Name of person receiving complaint		Date:     /     /
Complainant's Name	<input type="checkbox"/> Over 18	<input type="checkbox"/> Under 18
Role/status	<input type="checkbox"/> Administrator (volunteer) <input type="checkbox"/> Athlete/player <input type="checkbox"/> Coach/Assistant Coach <input type="checkbox"/> Employee (paid) <input type="checkbox"/> Official	<input type="checkbox"/> Parent <input type="checkbox"/> Spectator <input type="checkbox"/> Support Personnel <input type="checkbox"/> Other .....
When/where did the incident take place?		
What are the facts relating to the incident, as stated by the complainant?		
What is the nature of the complaint? (category/basis/grounds)  Tick more than one box if necessary	<input type="checkbox"/> Harassment or <input type="checkbox"/> Sexual/sexist <input type="checkbox"/> Sexuality <input type="checkbox"/> Race <input type="checkbox"/> Religion <input type="checkbox"/> Pregnancy <input type="checkbox"/> Other .....	<input type="checkbox"/> Discrimination <input type="checkbox"/> Selection dispute <input type="checkbox"/> Personality clash <input type="checkbox"/> Bullying <input type="checkbox"/> Disability <input type="checkbox"/> Child Abuse <input type="checkbox"/> Coaching methods <input type="checkbox"/> Verbal abuse <input type="checkbox"/> Physical abuse <input type="checkbox"/> Victimization <input type="checkbox"/> Unfair decision
What does the complainant want to happen to resolve the issue?		
What 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 sent to the relevant person in accordance with this policy.



**ATTACHMENT E2: RECORD OF FORMAL COMPLAINT**

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

Formal resolution procedures followed (outline)	
If investigated:	Finding:-
If went to hearing tribunal:	Decision:-  Action recommended:-
If mediated:	Date of mediation:- Were both parties present:- Terms of Agreement:-  Any other action taken:-
If decision was appealed:	Decision:-  Action recommended:-
Resolution	<input type="checkbox"/> Less than 3 months to resolve <input type="checkbox"/> Between 3 – 8 months to resolve <input type="checkbox"/> More than 8 months to resolve
Completed by	Name: Position: Signature: / /
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 BMXA 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.**

Fact sheets on reporting allegations of child abuse in different states and territories are available at [www.playbytherules.net.au](http://www.playbytherules.net.au).

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

All people working with BMXA 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 CEO of BMXA 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 BMXA.
- 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 BMXA).
- BMXA 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 face other disciplinary action.
- If disciplinary action is undertaken, we will follow the procedures set out in Clause 9 of our policy.
- Where required we will provide the relevant government agency with a report of any disciplinary action we take.

#### Contact details for advice or to report an allegation of child abuse

<b>Australian Capital Territory</b>	
ACT Police Non-urgent police assistance Ph: 131 444 <a href="http://www.afp.gov.au">www.afp.gov.au</a>	Office for Children, Youth and Family Services <a href="http://www.dhcs.act.gov.au/ocyfs/services/care_and_protection">www.dhcs.act.gov.au/ocyfs/services/care_and_protection</a> Ph: 1300 556 729
<b>New South Wales</b>	
New South Wales Police Non-urgent police assistance Ph: 131 444 <a href="http://www.police.nsw.gov.au">www.police.nsw.gov.au</a>	Department of Community Services <a href="http://www.community.nsw.gov.au">www.community.nsw.gov.au</a> Ph: 132 111
<b>Northern Territory</b>	
Northern Territory Police Non-urgent police assistance Ph: 131 444 <a href="http://www.pfes.nt.gov.au">www.pfes.nt.gov.au</a>	Department of Children and Families <a href="http://www.childrenandfamilies.nt.gov.au">www.childrenandfamilies.nt.gov.au</a> Ph: 1800 700 250
<b>Queensland</b>	
Queensland Police Non-urgent police assistance Ph: 131 444 <a href="http://www.police.qld.gov.au">www.police.qld.gov.au</a>	Department of Communities <a href="http://www.communities.qld.gov.au/childsafety">www.communities.qld.gov.au/childsafety</a> Ph: 1800 811 810
<b>South Australia</b>	
South Australia Police Non-urgent police assistance Ph: 131 444 <a href="http://www.sapolice.sa.gov.au">www.sapolice.sa.gov.au</a>	Department for Communities and Social Inclusion <a href="http://www.dcsi.sa.gov.au">www.dcsi.sa.gov.au</a> Ph: 131 478
<b>Tasmania</b>	
Tasmania Police Non-urgent police assistance Ph: 131 444 <a href="http://www.police.tas.gov.au">www.police.tas.gov.au</a>	Department of Health and Human Services <a href="http://www.dhhs.tas.gov.au/children">www.dhhs.tas.gov.au/children</a> Ph: 1300 737 639

**Victoria**

Victoria Police  
Non-urgent police assistance  
Ph: (03) 9247 6666  
[www.police.vic.gov.au](http://www.police.vic.gov.au)

Department of Human Services  
[www.dhs.vic.gov.au](http://www.dhs.vic.gov.au)  
Ph: 131 278

**Western Australia**

Western Australia Police  
Non-urgent police assistance  
Ph: 131 444  
[www.police.wa.gov.au](http://www.police.wa.gov.au)

Department for Child Protection  
[www.dcp.wa.gov.au](http://www.dcp.wa.gov.au)  
Ph: (08) 9222 2555 or 1800 622 258

