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SKATE AUSTRALIA



MEMBER PROTECTION BY-LAW NO. 1

**Effective from 1st October 2001
Revised February 2007**

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PREFACE

The safety and well being of every member of *Skate Australia* is integral to the future of our sport. Unfortunately as no sporting organisation can deny the unfortunate prospect of encountering a discrimination or harassment case, *Skate Australia's* Board adopted this **Member Protection Policy at its July 2001 meeting and has been revised October 2003 and February 2007 to ensure the policy is compliant with legislation in all states and territories of Australia.**

The purpose of this policy is to protect the health, safety and well being of all *Skate Australia's* members and those who participate in the activities of the Association. In addition *Skate Australia* also seeks to provide a safe environment for those participating in its activities.

This Policy confirms that the Federation will not tolerate harassment, discrimination or abuse of those involved in its activities.

The SA Board believes everyone who participates in the activities of the Association has the right to be treated with respect and dignity. They also have the right to have any complaints dealt with in a fair, confidential and sensitive manner and to be given the opportunity to be heard before any penalties are imposed.

Simon Wilkins
President *Skate Australia* Inc.

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PART I - INTRODUCTION

This Part sets out the purpose of *this By-Law*, what it covers, who it applies to and when it commences.

1. WHAT IS THE PURPOSE OF *THIS BY-LAW*?

- 1.1 The purpose of *this By-Law* is to protect the health, safety and well being of all *Skate Australia* members and of those who participate in the activities of *Skate Australia* and *Member Clubs*.
- 1.2 *Skate Australia* also seeks to provide a safe environment for those participating in the activities of *Skate Australia* and its *Members*.
- 1.3 This *By-Law* confirms that *Skate Australia* and its *Members* will not tolerate harassment, discrimination or abuse of those involved in its or its *Members'* activities.
- 1.4 This *By-Law* also records *Skate Australia's* commitment to strong ethical principles and its requirement that all people participating in its activities must comply with principles of responsible and professional behaviour.
- 1.5 *Skate Australia* believes everyone who participates in its, and its *Members'* activities, has the right to be treated with respect and dignity. They also have the right to have any complaints dealt with in a fair, confidential and sensitive manner, and to be given the opportunity to be heard before any penalties are imposed.
- 1.6 This *By-Law* also recognises that certain types of harassment and discrimination are unlawful and that the notification of abuse to the relevant governmental authority, in certain cases, is a legal requirement.
- 1.7 *Skate Australia* and its *Members*, also seek to recruit and retain only those people who commit to the principles set out in *this By-Law*. To this end *Skate Australia* and its *Members*, seek the right to obtain a *Police Check* and undertake a rigorous recruitment process before appointing people to be involved in their activities, especially those in roles involving people who have unsupervised contact with children under 18 years of age.
- 1.8 This policy also reflects our support and implementation of the sport industry principles and values outlined in **The Essence of Australian Sport** – principles of fairness, respect, responsibility and safety.

2. WHAT DOES *THIS BY-LAW* COVER?

- 2.1 This *By-Law* details a number of ways in which *Skate Australia* and its *Members* seek to fulfil the purposes set out in Part 1.
- 2.2 In summary, *this By-Law* sets out the following:
 - (a) it is a mandatory requirement from 1st July 2001 for *Skate Australia* to screen *Preferred Potential Appointees* and *Existing Appointees* in certain roles. It is mandatory for *Member Clubs* to do the same from 1st December 2001 (see Part II, clause 6);

- (b) it is a mandatory requirement from 1st July 2001 for *Skate Australia* to obtain a *Prohibited Persons Declaration* from *Preferred Potential Appointees* and *Existing Appointees* in certain roles. It is mandatory for *Member Clubs* to do the same from 1st December 2001 (see Part II, clause 7);
- (c) it is a requirement for *Skate Australia* and *Member Clubs* to promote and distribute *this By-Law* and to enforce and recognise any penalties imposed under it (see Part II, clause 8);
- (d) it is an offence under *this By-Law* to engage in “*Harassment*”, including engaging in *Sexual Harassment, Abuse, Child Abuse* and *Vilification* (see Part III, clause 9);
- (e) it is an offence under *this By-Law* to engage in “*Discrimination*” (see Part III, clause 10);
- (f) all coaches, umpires, administrators, other officials, athletes and parents/guardians are bound by a Code of Conduct (see Part III, clause 12 and attachments);
- (g) *this By-Law* records the legal requirement to notify abuse to the relevant governmental authority in certain situations (see Part III, clause 20);
- (h) a process for making a *Complaint* about a possible breach of *this By-Law* (see Part III, clauses 14, 15 and 16);
- (i) a process for investigating a possible breach of *this By-Law* (see Part III, clause 16);
- (j) a process for a hearing about an alleged breach of *this By-Law* (see Part III, clause 17);
- (k) a list of possible penalties which can be imposed (see Part III, clause 18); and
- (l) an appeal process (see Part III, clause 19).

2.3 This *By-Law* does not cover any of the matters referred to in *Skate Australia’s* by law 8 – Disciplinary Tribunals, or its derivatives adopted by *State Associations* or *Branches*, as amended from time to time.

3. WHO DOES **THIS BY-LAW** APPLY TO?

3.1 This *By-Law* applies to the following organisations and individuals:

- (a) persons and administrators appointed or elected to boards of directors, executives and/or committees (including sub-committees), including office bearers such as presidents, vice- presidents, treasurers, secretaries and selectors of *Skate Australia* and *Member Clubs*;
- (b) employees of *Skate Australia* and *Member Clubs* (whether paid or unpaid) and volunteers of *Skate Australia* and *Member Clubs*;

- (c) officials appointed or elected by *Skate Australia and Member Clubs* in relation to athletes and/or teams which represent such organisations including team management personnel such as coaches, managers, physiotherapists etc;
- (d) Skate coaches (including assistant coaches) who:
 - (i) are appointed and/or employed by *Skate Australia and Member Clubs* (whether paid or unpaid); or
 - (ii) are *Accredited Coaches*; or
 - (iii) have an agreement (whether or not in writing) with *Skate Australia* or a *Member Club* to coach Skate at a facility owned or managed by such organisation;
 - (iv) referees, umpires and other officials involved in the regulation of the game of Skate appointed by *Skate Australia or Member Clubs*;
- (e) Skate athletes who:
 - (i) enter any tournament, activity or events (including camps, training sessions) which are held or sanctioned by *Skate Australia or a Member Club*; or
 - (ii) are registered with a *Member Club* as an athlete and/or member;
- (f) *Member Clubs*;
- (g) individual members;;
- (h) any other person or organisation who or which is a member of or affiliated to *Skate Australia or Member Clubs* (including *Life Members*);
- (i) any other person or organisation (for example a parent/guardian, spectator or sponsor) who or which agrees, in writing, (whether on a ticket, entry form or otherwise) to be bound by *this By-Law*.

4. WHAT IS THE STATUS OF THIS BY-LAW?

- 4.1 This *By-Law* is issued by special resolution of the Executive Committee of *Skate Australia* under article 23 of the *Skate Australia Constitution*.
- 4.2 Except to the extent outlined in clauses 4.3 and 4.4, *this By-Law* comes into force on 1st July 2001.
- 4.3 *Member Clubs* shall not be required to comply with clauses 6 and 7 of Part II (screening and *Prohibited Person Declaration*) of *this By-Law* until 1st December 2001, except where otherwise required by law.
- 4.4 This *By-Law* may be changed from time to time by the Executive Committee of *Skate Australia* under the *Skate Australia Constitution*.

5. WHAT DO WORDS IN *THIS BY-LAW* MEAN?

5.1 In *this By-Law* the following words, as noted in italics, shall be construed with the following meaning. If words are not defined in this clause 5.1 they shall have the same meaning as in the *Skate Australia Constitution*.

“**Abuse**” means a form of *Harassment* and as more specifically set out in Part III, clauses 9.9 to 9.11 of *this By-Law*.

“**Accredited Coach**” means a coach who is accredited by a *Skate Australia Accredited Coach Education Provider*.

“**Australian Sports Commission**” means the government agency established under the *Australian Sports Commission Act 1989* and includes the Australian Institute of Sport.

“**Branch**” means a discipline of the sport recognised by *Skate Australia* as having the power to administer matters relevant to it. It includes both national and state *Branches*.

“**By-Law**” and “**this By-Law**” means this Member Protection *By-Law*.

“**Child Abuse**” has the meaning set out in Part III, clause 9 of *this By-Law*.

“**Complaint**” means a complaint made under Part III, clauses 14 and 15 of *this By-Law*.

“**Discrimination**” means a form of harassment and as more specifically set out in Part III, clause 10 of *this By-Law*.

“**Existing Appointee**” means a person currently elected, appointed or holding a position, whether by way of employment, contract or otherwise and whether paid or unpaid.

“**Harassment**” has the meaning set out in Part III, clause 9 of *this By-Law*.

“**Hearings Officer**” means a person appointed in accordance with clauses 8.1(g) and/or 8.3 (b).

“**Members**” means *Member Clubs*, individual members and life members.

“**Member Clubs**” means those clubs which are a member of or affiliated with *Skate Australia*.

“**Member Protection Officer**” means a person appointed in accordance with clauses 8.1(e) and/or 8.3 (a).

“**Member Protection Tribunal**” means the tribunal of *Skate Australia* or a *Member Club* established to hear and determine alleged offences and appeals under *this By-Law*.

“**Police Check**” means a police records check conducted by the Australian Federal Police.

“Preferred Potential Appointee” means a person short listed for a position, whether by way of employment, contract or otherwise and whether paid or unpaid.

“Prohibited Person” means a person who has been convicted of a *Serious Sex Offence*.

“Prohibited Person Declaration” means a declaration in relation to *Serious Sex Offences* as set out in Attachment J (see clause 7 of Part III of *this By-Law*).

“Skate Australia” means *Skate Australia Inc*, the peak body responsible for the administration of Skate in Australia, and includes the *State Associations* and *Branches* where relevant.

“Skate Australia Accredited Coach Education Provider” means an individual or organisation approved by *Skate Australia* to undertake Development and Advanced Coaches Courses in accordance with the *Skate Australia* guidelines as amended from time to time.

“Skate Australia General Code of Conduct” means minimum requirements for conduct during any activity held by *Skate Australia* and/or Member club

“Skate Australia Constitution” means the memorandum and articles of association of *Skate Australia* as amended from time to time.

“Serious Sex Offence” means an offence involving sexual activity or acts of indecency including but not limited to:

- (a) Rape
- (b) Indecent assault
- (c) Sexual assault
- (d) Assault with intent to have sexual intercourse
- (e) Incest
- (f) Sexual penetration of child under the age of 16
- (g) Indecent act with child under the age of 16
- (h) Sexual relationship with child under the age of 16
- (i) Sexual offences against people with impaired mental functioning
- (j) Abduction and detention
- (k) Procuring sexual penetration by threats or fraud
- (l) Procuring sexual penetration of child under the age of 16
- (m) Bestiality
- (n) Soliciting acts of sexual penetration or indecent acts

- (o) Promoting or engaging in acts of child prostitution
- (p) Obtaining benefits from child prostitution
- (q) Possession of child pornography
- (r) Publishing child pornography and indecent articles

“Sexual Harassment” means a form of *Harassment* and as more specifically set out in Part III, clause 9 of *this By-Law*.

“State Associations” means those entities which are recognised by *Skate Australia* in accordance with its constitution and which include Queensland Skate Inc., Skate Victoria Inc, Skate New South Wales Inc, Skate South Australia Inc and Roller Sports Association of West Australia Inc.

“their Nominee” means the person who is, under the constitution of the relevant organisation, empowered to act in the President’s absence and may include a Vice-President, Deputy Chairperson or other similar title, however described.

“Vilification” means a form of *Harassment* and as more specifically set out in Part III, clause 9 of *this By-Law*.

PART II - PREVENTATIVE ACTION

This Part sets out the requirement for mandatory screening and declarations for certain roles within Skate and the requirement for *Members* to distribute and enforce *this By-Law*.

6. WHAT IS SCREENING?

6.1 One of the ways *Skate Australia* and its *Members* seek to protect the health, safety and well being of all the people participating in their activities is to screen people for certain roles.

6.2 Who must be Screened?

Subject to clause 4.3 of Part I, screening (as set out in clause 6.4 below) is mandatory for *Skate Australia* and *Member Clubs* for *Preferred Potential Appointees* and *Existing Appointees* in the following types of roles:

- (a) coaches who are appointed or seeking appointment (whether employed, contracted or otherwise) by *Skate Australia* or *Member Clubs* for reward;
- (b) volunteer coaches appointed or seeking appointment by *Skate Australia* or *Member Clubs*, who will or are likely to travel away with teams of athletes under 18 years of age; and
- (c) persons appointed or seeking appointment by *Skate Australia* or a *Member Club* to a role in which that person is likely to have individual and unsupervised contact with athletes under 18 years of age (for example, a team manager).

6.3 Screening is highly recommended, but not mandatory, for *Preferred Potential Appointees* and *Existing Appointees* in the following types of roles:

- (a) volunteer coaches appointed or seeking appointment by *Skate Australia* or a *Member Club* who will or are likely to travel away with teams of athletes over 18 years of age; and
- (b) persons appointed or seeking appointment by *Skate Australia* or a *Member Club* to a role in which that person is likely to have contact with athletes under 18 years of age but where such contact is supervised at all times by another adult.

6.4 For the purposes of *this By-Law*, screening shall mean:

- (a) Checking the *Preferred Potential Appointees'* referees;
- (b) Interviewing the *Preferred Potential Appointees*; and
- (c) Obtaining a *Police Check* of the *Preferred Potential Appointees* and *Existing Appointees*.

6.5 Screening under *this By-Law* is not a replacement for any similar requirement prescribed by law, which is set out in Attachment K which forms part of this By-Law. If State screening legislation sets an equivalent or higher standard of screening to that set under *this By-Law*, the requirement to screen under *this By-Law* need not be followed as it would be superseded by any similar requirement prescribed by

law. In particular, Queensland, New South Wales, Western Australia and Victoria have legislative requirements that may apply to residents and people visiting the State. Consider Attachment K in addition to this clause 6 where relevant.

- 6.6 Checking the *Preferred Potential Appointees'* referees (in clause 6.4(a)) includes making verbal or written inquiries of the *Preferred Potential Appointees'* nominated referees (preferably at least 2) as to the *Preferred Potential Appointees'* suitability for the proposed role and their suitability for involvement with children under 18 years of age.
- 6.7 Interviewing the *Preferred Potential Appointee* (in clause 6.4(b)) includes questioning the *Preferred Potential Appointee* as to their suitability for the proposed role and their suitability for involvement with children under 18 years of age.
- 6.8 The purpose of a *Police Check* is to see whether the person has any previous criminal convictions. If the *Police Check* reveals that the person has committed any criminal offences then the following requirements apply:
- (a) If the offence (whenever it occurred) is one involving dishonesty, drugs, violence, an offence against a person (e.g. sex offences, assault) or an offence which in any way involved persons under 18 years of age, then:
 - (i) in the case of a *Preferred Potential Appointee*, they must not be appointed to the role. If that person is appointed to a role then this is an offence under *this By-Law* (see Part III, clause 13) and the *Member* who appointed the person will be penalised in accordance with *this By-Law*;
 - (ii) in the case of an *Existing Appointee*, steps must be taken to end the appointment. Note legal advice should be sought before such termination occurs.
 - (b) If the offence is one other than those in clause 6.8(a), such as an offence to property or a minor traffic offence, then the *Preferred Potential Appointee* may be appointed, subject to satisfaction of any other criteria for the role.
- 6.9 All persons to whom *this By-Law* applies must agree to *Skate Australia* or the relevant *Member Club* obtaining a *Police Check* of them, if they apply for or currently hold a role of the type set out in clause 6.2. (A consent form is attached for this purpose as Attachment I). The *Police Check* must be obtained, in the case of:
- (a) a *Preferred Potential Appointee*, prior to the appointment;
 - (b) an *Existing Appointee*.
- 6.10 If a *Preferred Potential Appointee* or *Existing Appointee* is not willing to agree to a screening, *Skate Australia* and/or the relevant *Member Clubs* shall:
- (a) in the case of a *Preferred Potential Appointee*, not appoint that person to the role concerned. Breach of this requirement is an offence under *this By-Law* (see Part III) and will be penalised in accordance with *this By-Law*;

- (b) in the case of an *Existing Appointee*, steps must be taken to end the appointment. Note legal advice should be sought before such termination occurs.
- 6.11 All information obtained during the course of screening (including any *Police Check*) must be kept confidential to the persons or committee within *Skate Australia* or the *Member Club* who has been delegated the task of investigating and/or making the appointment for the role. Information collected during screening about a person who is not appointed to the role must be returned to the *Preferred Potential Appointee* and not retained unless the *Preferred Potential Appointee* agrees.
- 6.12 After an initial *Police Check* has been provided by either a successful *Preferred Potential Appointee* or an *Existing Appointee* under *this By-Law*, such appointee is required to advise the President (or in their absence *their Nominee*), of the organisation which appointed them, in writing, immediately upon any conviction for a criminal offence by them.

7. PROHIBITED PERSON DECLARATION

- 7.1 In addition to screening, another mechanism which *Skate Australia* and its *Members* consider appropriate to minimise the chances of inappropriate behaviour occurring is mandatory *Prohibited Person Declarations* of all *Preferred Potential Appointees* and *Existing Appointees* appointed to a role set out in clause 7.2.

- 7.2 Who must provide a *Prohibited Person Declaration*?

Subject to clause 4.3 of Part I, it is mandatory for *Skate Australia* and *Member Clubs* to obtain a *Prohibited Person Declaration* (as set out in clause 7.5 below) from *Preferred Potential Appointees* and *Existing Appointees* in the following types of roles:

- (a) coaches who are appointed or seeking appointment (whether employed, contracted or otherwise) by *Skate Australia* or *Member Clubs* for reward;
- (b) volunteer coaches appointed or seeking appointment by *Skate Australia* or *Member Clubs* who will or are likely to travel away with teams of athletes under 18 years of age; and
- (c) persons appointed or seeking appointment by *Skate Australia* or a *Member Club* to a role in which that person is likely to have individual and unsupervised contact with athletes under 18 years of age (for example, a team manager).
- 7.3 It is an offence under *this By-Law* (see Part III, clause 13) for a *Prohibited Person* to work or seek work in the roles set out in clause 7.2.
- 7.4 It is also an offence under *this By-Law* (see Part III, clause 13) for *Skate Australia* or a *Member Club* to:
- (a) in the case of a *Preferred Potential Appointee*, appoint the *Preferred Potential Appointee* in any of the roles set out in clause 7.2 without first obtaining a *Prohibited Person Declaration* or to appoint a *Preferred Potential Appointee* who is a *Prohibited Person*;

- (b) in the case of an *Existing Appointee*, to continue to appoint a *Prohibited Person* in the roles set out in clause 7.2.
- 7.5 The *Prohibited Person Declaration* must be obtained, in the case of:
- (a) a *Preferred Potential Appointee* , prior to the appointment;
- (b) an *Existing Appointee*.
- 7.6 If the *Prohibited Person Declaration* is not provided in accordance with clause 7.2 and 7.5, or the *Prohibited Person Declaration* reveals that the person is a *Prohibited Person, Skate Australia and/or the relevant Member Club* must:
- (a) in the case of a *Preferred Potential Appointee*, not appoint the person to any of the roles. If that person is appointed to a role then this is an offence under *this By-Law* (see Part III, clause 13) and the *Member* who appointed the person will be penalised in accordance with *this By-Law*;
- (b) in the case of an *Existing Appointee*, steps must be taken to transfer the person to another role which is not set out in clause 7.2 or if no such alternatives exist, to end the appointment of the person. Note legal advice should be sought before such termination occurs.
- 7.7 All information in the *Prohibited Person Declaration* must be kept confidential to the persons or committee within *Skate Australia* or the *Member Club* who has been delegated the task of requesting and reviewing the *Prohibited Person Declaration*.
- 7.8 After an initial *Prohibited Person Declaration* has been provided by either a successful *Preferred Potential Appointee* or an *Existing Appointee* under *this By-Law*, such appointee is required to advise the President (or in their absence *their Nominee*), of the organisation which appointed them, in writing, immediately upon becoming a *Prohibited Person*.
- 7.9 Obtaining a *Prohibited Person Declaration* under *this By-Law* (which is set out in Attachment J, although the Form and requirements in New South Wales may vary so please see www.kids.gov.au/check/resources.html and Attachment K2) is not a replacement for any similar requirement prescribed by law. If State legislation sets an equivalent or higher standard to that set under *this By-Law*, the requirement to obtain a *Prohibited Person Declaration* need not be followed as it would be superseded by any similar requirement prescribed by law..
- 8. DISCLOSURE AND ENFORCEMENT OF THIS BY-LAW**
- 8.1 *Skate Australia* must:
- (a) adopt and comply with *this By-Law*;
- (b) recognise and enforce any penalty imposed under *this By-Law*;
- (c) publish, distribute and promote *this By-Law* (and any amendments made to it from time to time) to *State Associations, Branches* and *Members* and make *this By-Law* available for inspection, or provide a copy;
- (d) make such amendments to their constitution, rules or by-laws in order for *this By-Law* to be enforceable, as required by *Skate Australia*;

- (e) appoint two *Member Protection Officers* annually to fulfil the functions set out in Part III, clauses 14, 15 and 16 of *this By-Law*, and to publish and display the names and contact details of such persons to *State Associations, Branches and Members*;
- (f) use any forms, contracts and clauses prescribed by *Skate Australia* in order to give effect to *this By-Law* in such documents as contracts, entry forms and participant registration forms, as directed by *Skate Australia*;
- (g) appoint a *Hearings Officer* annually to fulfil the functions set out in Part III, clause 16 and 17 of *this By-Law* and to publish and display the names of such person to *State Associations, Branches and Members*; and
- (h) establish a *Member Protection Tribunal* in accordance with Part III, clause 17 of *this By-Law*, to fulfil the functions set out in clauses 17 and 18 of Part III.

8.2 *Member Clubs* must:

- (a) adopt and comply with *this By-Law*;
- (b) recognise and enforce any penalty imposed under *this By-Law*;
- (c) publish, distribute and promote *this By-Law* (and any amendments made to it from time to time) to their members, in the manner required by *Skate Australia* and make *this By-Law* available for inspection, or provide a copy;
- (d) make such amendments to their constitution, rules or by-laws in order for *this By-Law* to be enforceable, as required by *Skate Australia*;
- (e) use any forms, contracts and clauses prescribed by *Skate Australia* in order to give effect to *this By-Law* in such documents as contracts, entry forms and player registration forms, as directed by *Skate Australia*.

8.3 It is not mandatory for *Member Clubs* to establish procedures for dealing with *Complaints* and hearings under Part III of *this By-Law*. If a *Member Club* wishes to establish procedures for dealing with *Complaints* and hearings under Part III of *this By-Law*, they must:

- (a) appoint two *Member Protection Officers* annually to fulfil the functions set out in Part III, clauses 14, 15 and 16 of *this By-Law*, and to publish and display the names and contact details of such persons to their members;
- (b) appoint a *Hearings Officer* annually to fulfil the functions set out in Part III, clause 16 and 17 of *this By-Law* and to publish and display the names of such person to their members; and
- (c) establish a *Member Protection Tribunal* in accordance with Part III, clause 17 of *this By-Law*, to fulfil the functions set out in clauses 17 and 18 of Part III.

8.4 *Skate Australia and Member Clubs* are responsible for taking all reasonable steps to ensure compliance with *this By-Law*. All other organisations and persons to which *this By-Law* applies to, have a direct responsibility to ensure they comply with *this By-Law*.

- 8.5 The failure to comply with any one of the requirements in this clause 8 is an offence under *this By-Law*.
- 8.6 *State Associations* and *Branches* may adopt their own member protection by-laws. This *By-Law* shall apply to the extent of any inconsistency. If a *State Association* or *Branch* does not adopt its own member protection by-law, then *this By-Law* shall have sole jurisdiction over all relevant persons and organisations.

PART III - OFFENCES

This Part makes it an offence to engage in *Harassment*, *Discrimination* and Other Misconduct.

9. WHAT IS HARASSMENT?

9.1 *Harassment* is any behaviour by a person or organisation to whom *this By-Law* applies which is offensive, abusive, belittling or threatening which is directed at any other person or a group of people and which refers to a particular characteristic of that person or group of people.

9.2 Whether or not the behaviour is *Harassment* is to be determined from the point of view of the person receiving the harassment. The recipient must consider the behaviour to be unwelcome. It does not matter whether or not the person harassing intended to offend. The behaviour must also be assessed objectively in that it must be the type of behaviour that a reasonable person would recognise as being unwelcome and likely to cause the recipient to feel offended, humiliated or intimidated.

9.3 *Harassment* can be expressed or implied, physical, verbal or non-verbal. *Harassment* may be a single incident or repeated. Requesting, assisting, instructing, inducing or encouraging another person to engage in discrimination or harassment may also be against this policy and/or the law. Examples include, but are not limited to:

- (a) Abusive behaviour aimed at humiliating or intimidating (this may also be *Vilification*);
- (b) Jokes or comments directed at a person's body, looks, age, race, religion, sexual orientation or disability (this may also be *Discrimination*);
- (c) Unwelcome remarks including teasing, name calling or insults (for example to umpires or other officials);
- (d) Innuendo or Taunting;
- (e) Offensive emails, letters, notes;
- (f) Displaying offensive materials e.g. posters, computer screen savers;
- (g) Sexual propositions (see also *Sexual Harassment*).

It is also against this policy (and may be against the law) to victimise a person who is involved in making a complaint of discrimination or harassment. Example: a player is ostracised by her male coach for complaining about his sexist behaviour to another club official or for supporting another player who has made such a complaint.

9.4 *Harassment* includes:

- (a) *Sexual Harassment* (see clauses 9.5 to 9.8 below);
- (b) *Discrimination* (see clause 10);

- (c) *Abuse* (see clauses 9.9 to 9.10 below);
- (d) *Child Abuse* (see clause 9.11 to 9.12 below) and
- (e) *Vilification* (see clause 9.13 below).

Some exceptions to state and federal anti-discrimination law apply. Examples include:

- (a) holding a competitive sporting activity for females only who are 12 years of age or over where strength, stamina or physique is relevant; or
- (b) not selecting a participant if the person's disability means he or she is not reasonably capable of performing the actions reasonably required for that sporting activity.

9.5 *Sexual Harassment* means:

- (a) an unwelcome sexual advance; or
- (b) an unwelcome request for sexual favours; or
- (c) unwelcome conduct of a sexual nature (including a statement, orally or in writing, of a sexual nature),

in circumstances where a reasonable person would have anticipated that the person being harassed would be offended, humiliated or intimidated.

9.6 *Sexual Harassment* is often, but need not be, behaviour which either:

- (a) involves blackmail or a quid pro quo, in that the harassment is accompanied by a direct or implied threat, promise or benefit. For example, a coach who implies that a player's selection to a team is dependent on compliance with a sexual proposition; or
- (b) creates a hostile or sexually permeated environment in that the harassment consists of crude remarks, jokes, the display of offensive material or by making the environment uncomfortable.

9.7 Examples of *Sexual Harassment* may include:

- (a) Uninvited touching, kissing, embracing, massaging;
- (b) Staring, leering, ogling;
- (c) Smutty jokes and comments;
- (d) Persistent or intrusive questions about people's private lives;
- (e) Repeated invitations to go out, especially after prior refusal;
- (f) Sexual propositions;
- (g) The use of promises or threats to coerce someone into sexual activity;

- (h) The display of sexually explicit material e.g. internet use, computer screen savers, calendars, posters;
- (i) Getting undressed in front of others of the opposite sex;
- (j) Invading the privacy of others while showering or toileting;
- (k) Photographing others while undressing showering or toileting;
- (l) Sleeping in close quarters with children without other adults present;
- (m) The use of sexually offensive emails, letters, faxes, notes;
- (n) Sexual insults and name-calling.

9.8 *Sexual Harassment* may be a criminal offence, for example indecent assault, rape, sex with a minor, obscene telephone calls or letters. If you have any doubt that an offence may have been committed you should notify the police.

9.9 *Abuse* is a form of *Harassment*. It includes:

- (a) physical abuse (e.g. assault);
- (b) emotional abuse, (e.g. blackmail, repeated requests or demands);
- (c) neglect (i.e. failure to provide the basic physical and emotional necessities of life);
- (d) abuse of power which the harasser holds over the harassed.

Examples of relationships in (d) that involve a power disparity include, but are not limited to, a coach-athlete, manager-athlete, employer-employee, doctor-patient. People in such positions of power need to be particularly wary not to exploit that power.

9.10 Examples of abusive behaviour include:

- (a) Bullying and humiliation of athletes by coaches;
- (b) *Abuse* and insults directed by parents at opposing athletes;
- (c) *Abuse* of umpires by spectators or team personnel;
- (d) Practical jokes which cause embarrassment or which endanger the safety of others.

9.11 Some forms of *Abuse* may constitute a criminal offence, for example assault. If you have any doubt that a criminal offence may have been committed you should notify the police.

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

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

- 9.13 *Child Abuse* may be a criminal offence. If you have any doubt that an offence may have been committed you should notify the police.
- 9.14 *Vilification* involves a person inciting hatred towards, serious contempt for, or severe ridicule of, a person or group of persons by public act. *Vilification* is a public act or acts which are reasonably likely in the circumstances to offend, insult, humiliate or intimidate are also prohibited. Public acts that may amount to vilification include any form of communication to the public and any conduct observable by the public. This applies to spectators, participants or any other person who engages in such an act in public. *Vilification* is an offence under *this By-Law* where it is based on any of the attributes or characteristics set out in clause 10.2. Some states and territories also prohibit public acts that vilify on other grounds such as homosexuality, gender identity, HIV/AIDS, religion or disability.
- 9.15 Some forms of *Vilification* may constitute a criminal offence, for example where harm is threatened. If you have any doubt that a criminal offence may have been committed you should notify the police.
- 9.16 Persons or organisations to whom *this By-Law* applies who engage in *Harassment* commit an offence under *this By-Law* (see Part III, clause 13) and will be penalised in accordance with *this By-Law* (see Part III, clause 18).
- 9.17 *Skate Australia* takes the view that intimate personal relationships or sexual relationships between coaches, managers, umpires or staff members and athletes, while not necessarily constituting *Harassment*, can have harmful effects on the individual athlete involved, on other athletes, and on the sport's public image. Such relationships may be perceived to be exploitative because there is usually a disparity between coaches, managers, umpires or staff members and athletes in terms of authority, maturity, status and dependence.

Given there is always a risk that the relative power of the coach, manager, umpire or staff member has been a factor in the development of such relationships, they should be avoided by coaches, managers, umpires or staff members working at all levels.

In the event that a player attempts to initiate an intimate sexual relationship, the coach, manager, umpire or staff member must take personal responsibility for discouraging such approaches, explaining the ethical basis for such actions.

10. WHAT IS *DISCRIMINATION*?

10.1 *Discrimination* is treating or proposing to treat a person less favourably than someone else in certain areas of public life on the basis of an attribute or personal characteristic they have.

10.2 The applicable attributes or characteristics are:

- (a) Age;
- (b) Disability – this includes loss of bodily function (e.g. deaf or blind), presence of disease (e.g. hepatitis or HIV), loss of part of the body, disfigurement, malfunction of part of the body, psychological disease, slow learning difficulties;
- (c) Marital status – this covers whether the person is single, married, de facto, married but living separately from one’s spouse, divorced, or widowed;
- (d) Parental/Carer status – this includes whether the person is a step parent, adoptive parent, foster parent or guardian and also includes whether the person is childless or is a carer (e.g. of children, or other dependents);
- (e) Physical features – this includes a person weight, size, height and other physical features;
- (f) Political belief/activity;
- (g) Pregnancy and Breastfeeding– this includes whether the person is with child, has the supposed signs or symptoms of pregnancy (e.g. large stomach, morning sickness);
- (h) Race;
- (i) Religious belief/activity;
- (j) Sex or gender;
- (k) Sexual orientation;
- (l) Social Origin
- (m) Transgender orientation.
- (n) Irrelevant medical record
- (o) Irrelevant criminal record
- (p) Trade union membership/activity

Examples of *Discrimination*

- Age: A club refuses to allow an older person to coach a team simply because of their age.
- Breastfeeding: A member of the club who is breastfeeding her baby in the club rooms is asked to leave.
- Disability: A junior player is overlooked because of her mild epilepsy.
- Family responsibilities: A club decides not to promote an employee because he has a child with a disability even though the employee is the best person for the job.
- Gender Identity: A transgender contract worker is harassed when employees refuse to call her by her female name.
- Homosexuality: An athlete is ostracised from her team after she tells a team mate that she is a lesbian.
- Marital Status: A player is deliberately excluded from team activities and social functions because she is single.
- Pregnancy: A woman is dropped from her squad when she becomes pregnant.
- Race: An Italian referee is not permitted to referee games with a high proportion of Italian players on one team because of his race.
- Sex: Specialist coaching is only offered to male players in a mixed team.

10.3 The areas in which discrimination under *this By-Law* are not permitted are in:

- (a) employment (including unpaid employment) by *Skate Australia* or a *Member Club*;
- (b) the provision of goods and services by *Skate Australia* or a *Member Club*;
- (c) the selection or otherwise of any person for competition or team (domestic or international) by or on behalf of *Skate Australia* or a *Member Club*;
- (d) the entry or otherwise of any player or other person to any competition held or sanctioned by *Skate Australia* (note the exception in clause 10.9 below);
- (e) obtaining or retaining membership (including the rights and privileges of membership) of *Skate Australia* or a *Member Club*.

10.4 Not only is *Discrimination* unlawful, but *Skate Australia* and its *Members*, also consider it is wrong because it denies people a chance by judging them on the basis of stereotypes or assumptions about what they can or cannot achieve.

10.5 *Discrimination* includes direct discrimination and indirect discrimination. Direct *Discrimination* occurs if a person treats, or proposes to treat, someone with an attribute or characteristic less favorably than the person treats or would treat, someone without that attribute or characteristic, in the same or similar circumstances. *Indirect Discrimination* occurs where a person imposes or intends

to impose a requirement, condition or practice which on its face is not discriminatory, but has the effect of discriminating against a person(s) with a particular attribute.

- 10.6 *Discrimination* also includes victimisation. This is where a person is subject to, or is threatened to suffer, any detriment or unfair treatment, because that person has or intends to pursue their legal rights under anti-harassment legislation or *this By-Law*.
- 10.7 Requesting, assisting, instructing, inducing or encouraging another person to engage in discrimination, is also *Discrimination*.
- 10.8 In addition to the description of *Discrimination* in clauses 10.1 to 10.7, any behaviour or conduct which is discrimination under any Federal or State legislation is *Discrimination* for the purposes of *this By-Law* and is an offence.
- 10.9 *Discrimination* is permitted if one of the exemptions under the applicable Federal or State legislation applies. These may include the following:
- (a) in relation to the selection of a team for competition or entry to a competition (in clauses 10.3 (c) and (d) above), *Discrimination* on the basis of a person's gender is permitted if the strength, stamina and physique of the competitor is relevant. However this exception cannot be used to discriminate against the selection or entry in competitions of coaches, umpires, or administrators; or
 - (b) *Discrimination* because of the person's pregnancy, disability or physical features is permitted if it is necessary to protect the health and safety or property of any person or of the public generally.

Persons or organisations to whom *this By-Law* applies who engage in *Discrimination* commit an offence under *this By-Law* (see Part III, clause 13) and will be penalised in accordance with *this By-Law*.

11. WHAT OTHER MISCONDUCT IS AN OFFENCE?

- 11.1 Conduct by persons or organisations to whom *this By-Law* applies which is not *Harassment* or *Discrimination* and which (if committed) is an offence under this By-law, (referred to as "Other Misconduct") means and includes the following:
- (a) Damage to property which occurs during or in connection with a tournament, event or activity held or sanctioned by *Skate Australia* or a *Member Club*;
 - (b) If the person is under 18 years of age, consuming alcohol during or in connection with a competition, tournament, event or activity held or sanctioned by *Skate Australia* or a *Member Club* except where such consumption is expressly permitted or authorised by *Skate Australia* or a *Member Club*;
 - (c) Being drunk and disorderly during or in connection with a competition, tournament, event or activity held or sanctioned by *Skate Australia* or a *Member Club*;
 - (d) Consuming, or aiding and abetting the consumption of, illegal drugs during or in connection with a competition, tournament, event or activity held or

sanctioned by *Skate Australia or a Member Club*, provided that this clause does not apply to doping offences which are covered by the *Skate Australia Anti-Doping Program*;

- (e) If the person is under 18 years of age, breaching a curfew imposed by *Skate Australia or a Member Club* during a competition, tournament, event or activity held or sanctioned by *Skate Australia or a Member Club*;
 - (f) Disruptive or disorderly behaviour during or in connection with a competition, tournament, event or activity held or sanctioned by *Skate Australia or a Member Club*;
 - (g) Committing any criminal offence or any other unlawful activity during or in connection with a competition, tournament, event or activity held or sanctioned by *Skate Australia or a Member Club*;
 - (h) Incurring debts (eg telephone or accommodation charges) on behalf of *Skate Australia or a Member Club* during or in connection with a competition, tournament, event or activity held or sanctioned by *Skate Australia or a Member Club* where such debts were or are not authorised by *Skate Australia or a Member Club*; or
 - (i) Breach of any one of the *Skate Australia Codes of Ethics* (see Part III, clause 12).
- 11.2 This *By-Law* does not apply to conduct which is not *Harassment* or *Discrimination* if it occurs on the rink during, or is related to, any skating activities, games and competitions held or sanctioned by *Skate Australia or a Member Club*.
- 11.3 The activities referred to in clause 11.2 shall be dealt with under *Skate Australia* by-law 8 – Disciplinary Tribunals, or its derivatives adopted by *State Associations*, as amended from time to time. The jurisdiction of by-law 8 shall prevail in the event of any inconsistency with *this By-Law*.
- 12. SKATE AUSTRALIA'S CODES OF CONDUCT**
- 12.1 To protect the health, safety and well being of all the people participating in the activities of *Skate Australia* and its *Members*, *Skate Australia* has developed and issued a Code of Conduct. It is set out in Attachment A and forms a part of *this By-Law*.
- 12.2 The *Skate Australia* Code of Conduct applies to the same people to whom *this By-Law* applies (see Part 1, clause 3).
- 12.3 The Code of Conduct is designed to reinforce conduct which *Skate Australia* considers is appropriate and to discourage behaviours which *Skate Australia* considers inappropriate. It sets criteria to help those to whom it applies to distinguish between correct and incorrect moral judgments.
- 12.4 Part of the Code of Conduct deals with specific standards and requirements for administrators, coaches, athletes and parents/guardians. These are called the "*Administrators Code of Conduct*", the "*Skate Australia Accredited Coach Education Provider Code of Conduct*", the "*Skate Australia Accredited Officials Education Provider Code of Conduct*", the "*Participants Code of Conduct*" and the "*Parent/Guardian Code of Conduct*" respectively (set out in Attachments B, C, E, G

and H and also forming part of *this By-Law*). These are in addition to the general Code of Conduct (Attachment A).

- 12.5 Although already binding under *this By-Law*, any coach or official who wishes to be, or is, accredited by a *Skate Australia Accredited Coach Education Provider* or *Skate Australia Accredited Officials Education Provider* must sign and return to *Skate Australia*, the *Skate Australia Accredited Coach Education Provider Code of Conduct Form* or the *Skate Australia Accredited Officials Education Provider Code of Conduct Form* (Attachments D and F to *this By-Law* respectively).
- 12.6 Breach of the Code of Conduct, including any of the specific parts of it which apply to administrators, coaches, athletes or parents/guardians, is an offence under *this By-Law* and will be penalised in accordance with *this By-Law*.

13. WHAT IS AN OFFENCE UNDER *THIS BY-LAW*?

- 13.1 It is an offence under *this By-Law* for any person or organisation to whom *this By-Law* applies to:
- (a) Engage in *Harassment*;
 - (b) Engage in *Sexual Harassment*;
 - (c) Engage in *Discrimination* as set out in applicable Federal or State legislation and/or on the grounds set out in clause 10.2 and in the areas set out in clause 10.3;
 - (d) Engage in *Abuse*;
 - (e) Engage in *Child Abuse*;
 - (f) Engage in *Vilification*;
 - (g) Breach any part of the *Skate Australia Code of Conduct* including any part of the *Administrators Code of Conduct*, the *Skate Australia Accredited Coach Education Provider Code of Conduct*, the *Athletes Code of Conduct* or the *Parent/Guardian Code of Conduct*;
 - (h) Appoint, or continue to appoint, a person to a role of the type to which clause 6.2 refers:
 - (i) without first undertaking screening (see clause 6.4); and
 - (ii) where the *Police Check* reveals the person has committed an offence of the type set out in clause 6.7(a);
 - (i) Appoint, or continue to appoint, a person to a role of the type to which clause 7.2 refers:
 - (i) without first obtaining a *Prohibited Person Declaration*; or
 - (ii) where the *Prohibited Person Declaration* reveals the person is a *Prohibited Person*;

- (j) Where the person is a *Prohibited Person*, to work or seek work in the roles set out in clause 7.2;
 - (k) For a person listed in clause 14.3, fail to comply with the procedures in *this By-Law* for dealing with a *Complaint*;
 - (l) Make a frivolous, vexatious or malicious *Complaint* under Part III, clause 14;
 - (m) Fail to enforce a penalty imposed by a *Member Protection Tribunal* under Part III, clause 18;
 - (n) Fail to notify the relevant authorities of abuse;
 - (o) Fail to publish, distribute and promote *this By-Law* in accordance with Part III, clause 8.1(c) and 8.2(c);
 - (p) Fail to appoint *Member Protection Officers* and a *Hearings Officer* in accordance with clause 8.1(e) and (g) or, where relevant, clause 8.3(a) and (b);
 - (q) Fail to establish a *Member Protection Tribunal* in accordance with clause 17;
 - (r) Fail to use the forms and clauses prescribed by *Skate Australia* in accordance with clause 8.1(f) and 8.2(e).
- 13.2 Any circumstances which may be an offence may be the subject of a *Complaint* (under Part III, clause 14) and/or be investigated and referred to a hearing under Part III, clause 17 of *this By-Law*.
- 14. HOW TO MAKE A COMPLAINT?**
- 14.1 Except for a complaint about *Child Abuse*, for which the investigation procedure is set out at Attachment M, any person or organisation may make a complaint about a person or organisation to whom *this By-Law* applies to, if they consider that person or organisation has, or may have, committed an offence and/or breached any part of *this By-Law* (a "*Complaint*").
- 14.2 A *Complaint* must be made in writing however it need not be called or referred to as a *Complaint*. In addition, please note that a person or organisation may provide information verbally under clause 16.1.
- 14.3 A *Complaint* must be made to any one of the following people:
- (a) a *Member Protection Officer* of *Skate Australia*; or
 - (b) if the relevant Member Club has established the procedures for dealing with Complaints and hearings under Part III of *this By-Law* then the *Member Protection Officer* of the relevant Member Club; or
 - (c) the President or in their absence *their Nominee* of *Skate Australia* or the relevant Member Club.

Note that a list of the *Member Protection Officers* must be made available to any person requesting such list and shall be displayed at the premises of *Skate Australia* and *Member Clubs*.

- 14.4 Making a frivolous, vexatious or malicious *Complaint* is an offence under *this By-Law* and will be dealt with as set out in Part III, clause 17.4.

15. WHAT IS THE PROCESS IF A COMPLAINT IS MADE?

- 15.1 If a person listed in clause 14.3 receives a *Complaint* and that *Complaint* alleges *Harassment, Sexual Harassment, Discrimination, Abuse* or *Vilification* of a sexual or physical nature, then such person must do the following:

- (a) If such person is not a *Member Protection Officer*, then they shall forward such *Complaint* as soon as possible to a *Member Protection Officer* at either *Skate Australia* or a *Member Club*.
- (b) The *Member Protection Officer* must then ask the complainant whether s/he wishes them to:
 - (i) listen and advise the complainant about what their options are and what the complainant might do; and/or
 - (ii) appoint an independent mediator between the complainant and the alleged offender to try and resolve the *Complaint* by agreement; or
 - (iii) in the case of a *Complaint* referred to a *Member Club*, refer the *Complaint* to *Skate Australia* if the relevant *Member Club* has not established procedures under clause 8.3.
- (c) Having determined the complainant's wishes in clause 15.1(b), the *Member Protection Officer* and the independent mediator shall:
 - (i) subject to clauses 15.2 and 15.3, act in accordance with the complainant's direction in relation to the options set out in clause 15.1(b);
 - (ii) keep the matter confidential and only discuss it with those people whom the complainant has authorised them to speak to about the *Complaint*; and
 - (iii) inform the relevant governmental authority, if required by law (see Part III, clause 20).

- 15.2 If the complainant wishes the *Member Protection Officer* to appoint a mediator between the complainant and the alleged offender to try and resolve the *Complaint* by agreement, the *Member Protection Officer* shall:

- (a) immediately notify the alleged offender, in writing, that a *Complaint* has been made and provide them with a copy of the written *Complaint*;
- (b) appoint an independent mediator to attempt to mediate a resolution between the complainant and the alleged offender.

- 15.3 If following the process in clause 15.2, an agreed resolution is reached between the complainant and the alleged offender, the *Complaint* shall be deemed to have been withdrawn and no further action in relation to that *Complaint* under *this By-Law* (except for that which is agreed) may be taken. (Note this does not prevent action being taken under State or Federal legislation).
- 15.4 If following the process in clause 15.2 an agreed resolution is not reached, or the complainant requests, the *Member Protection Officer* shall, with the complainant's agreement, refer the *Complaint* to the *Hearings Officer* at *Skate Australia* or the relevant *Member Club* for a hearing to be held under clause 17.
- 15.5 If a complainant withdraws the *Complaint* (which alleges *Sexual Harassment, Discrimination, Abuse* or *Vilification* of a sexual or physical nature), no further action in relation to that *Complaint* under *this By-Law* may be taken. (Note this does not prevent action being taken under State or Federal legislation).
- 15.6 Other Complaints:

If a person listed in clause 14.3 receives a *Complaint* and that *Complaint* is not one of the types set out in clause 15.1, then such person must refer the *Complaint* to the *Hearings Officer* at *Skate Australia* or the relevant *Member Club* for a hearing to be held under clause 17.

16. INVESTIGATION OF SUSPECTED OFFENCES

- 16.1 If a *Complaint* is not received, but the President, or in their absence *their Nominee* or a *Member Protection Officer* of *Skate Australia* or a *Member Club* receives information (whether or not in writing) which gives them reasonable cause to suspect that an offence under *this By-Law* may have been committed, then s/he shall do the following:
- (a) if the information gives them reasonable cause to suspect an offence involving *Sexual Harassment, Discrimination, Abuse* or *Vilification* of a sexual or physical nature, then such person may appoint an investigator to follow the procedures set out in clauses 15.1 to 15.4 as if a *Complaint* had been received, provided that in order to comply with clause 15.2(a) the *Member Protection Officer* must first request and receive as soon as possible the information regarding the alleged offence in writing and upon receiving such information supply it to the alleged offender;
 - (b) if the information gives them reasonable cause to suspect an offence involving *Child Abuse*, then the procedures in Attachment M must be followed;
 - (c) if the information gives them reasonable cause to suspect an offence under *this By-Law* other than one set out in clause 15.1, then s/he shall refer the information to the *Hearings Officer* at *Skate Australia* or the relevant *Member Club* for a hearing to be held under clause 17.
- 16.2 Except as otherwise provided in *this By-Law*, all information obtained by the President, *their Nominee* or the *Member Protection Officer* in accordance with this clause 16 must be kept confidential.

17. HEARINGS

- 17.1 Where the *Hearings Officer* at *Skate Australia* or a *Member Club* (if applicable) receives:
- (a) a *Complaint* referred to it under clause 15.4 or 15.6; or
 - (b) information referred to it under clause 16.1;
 - (c) s/he shall follow the procedures set out in this clause 17.
- 17.2 Upon receipt of the *Complaint* or the information, the *Hearings Officer* shall as soon as possible do the following:
- (a) Determine the composition of the *Member Protection Tribunal*, as detailed in clause 17.3;
 - (b) Send to the alleged offender:
 - (i) a notice setting out the alleged offence including details of when/where it is alleged to have occurred; and
 - (ii) a notice setting out the date, time and place for the hearing of the alleged offence which shall be as soon as reasonably practicable after receipt of the *Complaint* or information,
 - (iii) a copy of the *Complaint* or the information received if in writing, (referred to as "Notice of Alleged Offence");
 - (c) Send to the complainant(s) and the Chairperson of the *Member Protection Tribunal* a copy of the Notice of Alleged Offence.
- 17.3 The *Member Protection Tribunal* for each hearing shall be appointed by the Board of Directors (however described) of *Skate Australia* or the relevant *Member Club* (if applicable) and shall comprise of the following persons:
- (a) a barrister or solicitor (who shall be the Chairperson) or, if after reasonable attempts have been made to obtain one without success, then a person with considerable previous experience in the legal aspects of a member protection tribunal; and
 - (b) a person with a thorough knowledge of Skate; and
 - (c) one other person of experience and skills suitable to the function of the *Member Protection Tribunal*.
- provided that such persons may not include:
- (d) a person who is a member of the Board of Directors (however described) of the organisation which appoints the *Member Protection Tribunal*; or
 - (e) a person who would, by reason of their relationship with the complainant or the alleged offender, be reasonably considered to be other than impartial.

- 17.4 Frivolous, vexatious or malicious *Complaints*
- (a) If within 48 hours of sending the Notice of Alleged Offence, the alleged offender alleges in writing to the *Hearings Officer* that the *Complaint* is frivolous, vexatious or malicious, the Chairperson shall as a preliminary issue, determine whether or not such *Complaint* is frivolous, vexatious or malicious and shall advise the parties of his or her determination.
 - (b) The *Hearings Officer* shall provide a copy of the written allegation of the alleged offender that the *Complaint* is frivolous, vexatious or malicious to the other parties to the hearing (see clause 17.6).
 - (c) The Chairperson shall determine such preliminary issue as soon as practicable and in whatever manner the Chairperson considers appropriate in the circumstances provided that he or she does so in accordance with the principles of natural justice.
 - (d) The decision of the Chairperson under this clause 17.4 may be appealed within 48 hours of the determination to the relevant appeal body under clause 19.
- 17.5 The *Member Protection Tribunal* shall hear and determine the alleged offence in whatever manner it considers appropriate in the circumstances (including by way of teleconference, video conference or otherwise) provided that it does so in accordance with the principles of natural justice. The purpose of the hearing shall be to determine whether the alleged offender has committed an offence under *this By-Law*. If the *Member Protection Tribunal* considers that the alleged offender has committed an offence under *this By-Law*, it may impose any one or more of the penalties set out in clause 18.
- 17.6 The parties to the hearing shall include the complainant, the alleged offender, and the relevant organisation (being *Skate Australia* and/or the *Member Club*) and any witnesses which any such party wishes to have participate in the hearing
- 17.7 If upon receipt of the Notice of Alleged Offence, the *Member Protection Tribunal* considers that pending the determination of the matter the alleged offender may put at risk the safety and welfare of the complainant or others, it may order that the alleged offender be:
- (a) suspended from any role they hold with *Skate Australia* or the relevant *Member Club* and/or
 - (b) banned from any event or activities held by or sanctioned by *Skate Australia* and/or the relevant *Member Club*; and/or
 - (c) required not to contact or in any way associate with the complainant or other person about whom the alleged offence relates;
- pending the determination of the hearing.
- 17.8 There is no right of appeal of the decision by a *Member Protection Tribunal* under clause 17.7.
- 17.9 Any party to the hearing may be represented at the hearing by any person, including a legal representative.

- 17.10 Each party to the hearing shall bear their own costs in relation to the hearing.
- 17.11 The *Member Protection Tribunal* shall give its decision as soon as practicable after the hearing and will deliver to the following a statement of its written reasons:
- (a) the President of the organisation which established the *Member Protection Tribunal*;
 - (b) the complainant;
 - (c) the alleged offender; and
- any other party represented in the hearing.
- 17.12 Each member of each *Member Protection Tribunal* established under *this By-Law* shall be indemnified by the organisation which appointed them, from any claim or action for loss, damages, or costs made against them arising out of or in connection with their function as a member of the *Member Protection Tribunal* under *this By-Law*.
- 17.13 Except as otherwise provided in *this By-Law*, all members of the *Member Protection Tribunal* shall keep all matters relating to the hearing (including but not limited to the nature of the *Complaint*, information obtained before and during the hearing and the decision of the *Member Protection Tribunal*) confidential.

18. WHAT PENALTIES MAY BE IMPOSED?

- 18.1 If the *Member Protection Tribunal* considers that a person or organisation to whom *this By-Law* applies, has committed an offence under *this By-Law*, it may impose any one or more of the following penalties:
- (a) For offences committed by organisations: If the *Member Protection Tribunal* considers that *Skate Australia* or a *Member Club* has committed an offence under *this By-Law*, it may impose any one or more of the following penalties on such organisation:
 - (i) direct that any funding granted or given to it by *Skate Australia* cease from a specified date;
 - (ii) impose a monetary fine for an amount determined by the Tribunal;
 - (iii) impose a warning;
 - (iv) recommend to *Skate Australia* and/or the relevant *Member Club* that its membership of such organisation be suspended or terminated in accordance with their applicable constitution;
 - (v) direct that any rights, privileges and benefits provided to that organisation by *Skate Australia* or *Member Club* be suspended for a specified period or terminated;
 - (vi) direct that *Skate Australia* cease to sanction events held by or under the auspices of that organisation;

- (vii) any other such penalty as the *Member Protection Tribunal* considers appropriate.
- (b) For offences committed by individual persons: If the *Member Protection Tribunal* considers that an individual person to whom *this By-Law* applies has committed an offence under *this By-Law*, it may impose any one or more of the following penalties on such person:
- (i) direct that the offender attend counselling to address their conduct;
 - (ii) recommend that *Skate Australia* and/or the relevant *Member Club* terminate the appointment of the role which the offender holds with such organisation;
 - (iii) where there has been damage to property, direct that the offender pay compensation to the relevant organisation which controls or has possession of the property;
 - (iv) impose a monetary fine for an amount determined by the *Member Protection Tribunal*;
 - (v) impose a warning;
 - (vi) in the case of an *Accredited Coach*, direct the relevant *Accredited Coach Education Provider* to de-register such accreditation for a period or indefinitely;
 - (vii) withdraw any awards, placings, records won in any tournaments, activities or events held or sanctioned by *Skate Australia* or a *Member Club*;
 - (viii) direct the offender to repay all or part of any financial assistance (excluding any fee for service, wages or expenses) given to them by the *Australian Sports Commission*, any Federal or State funding agency, the Australian Olympic Committee, *Skate Australia* or a *Member Club* or any other organisation which has provided funding;
 - (ix) any other such penalty as the *Member Protection Tribunal* considers appropriate.
- 18.2 If an organisation or individual commits a second or subsequent offence under *this By-Law*, then the *Member Protection Tribunal* shall have regard to the previous offence, the penalty imposed and any other relevant factors, in imposing a penalty for the second or subsequent offence.
- 18.3 If a penalty is imposed by the *Member Protection Tribunal* under clause 18.1, the President of organisation from which the *Member Protection Tribunal* is established shall as soon as possible notify in writing *Skate Australia* and each *State Association*, *Branch* and *Member Club* of such penalty.
- 18.4 Every organisation to whom *this By-Law* applies shall recognise and enforce any decision and penalty imposed by a *Member Protection Tribunal* under *this By-Law*. The failure to do so is an offence under *this By-Law*.

19. HOW CAN A DECISION BE APPEALED?

19.1 Any party to a hearing held under clause 17 (including an organisation) may appeal a decision of a *Member Protection Tribunal*.

19.2 An appeal shall be made to the following Appeal Body:

- (a) an appeal against a decision of a *Member Protection Tribunal* established by a *Member Club* shall be made to the *Member Protection Tribunal of Skate Australia*;
- (b) an appeal against a decision of a *Member Protection Tribunal* established by *Skate Australia*, shall be made to the appeal division of the Court of Arbitration for Sport (Oceania Registry) ("CAS");

(referred to as the "Appeal Body").

19.3 There is only one right of appeal following the decision of the initial *Member Protection Tribunal*. Any appeal must be solely and exclusively resolved by the Appeal Body and the decision of such Appeal Body is final and binding on the parties. It is agreed that no party to such appeal may institute or maintain proceedings in any court or tribunal other than the relevant Appeal Body. (NOTE: This provision does not prevent any person or organisation taking action under any State or Federal legislation for *Harassment* or any criminal offence.)

19.4 The process for such appeal is as follows:

- (a) the party wishing to appeal ("the Appellant") shall within 48 hours of the *Member Protection Tribunal* delivering its decision:
 - (i) advise, in writing, the President of the organisation of the relevant Appeal Body of their intention to appeal ("Notice of Intention to Appeal"); and
 - (ii) in the case of an appeal from a decision of a *Member Protection Tribunal* established by *Skate Australia* which is to CAS, complete and file an application to appeal with CAS in accordance with the Code of Sports Related Arbitration; and
- (b) for all appeals, except those to CAS, as soon as possible after receipt of the Notice of Intention to Appeal, the President of the organisation of the relevant Appeal Body shall appoint a *Member Protection Tribunal* to hear and determine the appeal, which shall comprise of persons who comply with clause 17.3 of *this By-Law*, and
- (c) within 5 days of lodging the Notice of Intention to Appeal, (or such shorter time as determined by the Appeal Body if there is urgency) the Appellant shall:
 - (i) pay the appeal fee to the Chairperson of the Appeal Body, which shall be \$100 (including GST) which is non-refundable, except for an appeal to CAS which shall be as per the Code of Sports-Related Arbitration applicable to CAS; and

- (ii) submit to the Chairman of the Appeal Body or CAS (as the case may be), the grounds of the appeal in writing and provide copies to the complainant, the President of the organisation which established the *Member Protection Tribunal* who made the decision which is the subject of the appeal and the President of the organisation which established the Appeal Body.

If either of the requirements in this sub-clause are not met by the due time the appeal shall be deemed to be withdrawn;

- (d) on completion of the procedures in (a) to (c) above, the Chairman of the Appeal Body shall determine a place, time and date for the hearing of the appeal and as soon as possible thereafter notify all parties to the appeal in writing of such details; and
- (e) the procedure for the appeal shall be the same as the procedure for the *Member Protection Tribunal* set out in clause 17 except where the Appeal Body is CAS, in which case the Code of Sports-related Arbitration shall apply.

19.5 Upon hearing the appeal, the Appeal Body may do any one or more of the following:

- (a) dismiss the appeal;
- (b) uphold the appeal;
- (c) impose any of the penalties set out in clause 18;
- (d) reduce, increase or otherwise vary any penalty imposed by the initial *Member Protection Tribunal*.

19.6 The Appeal Body has no power to award costs and each party shall bear their own costs in relation to any appeal.

20. WHEN AND TO WHO ARE YOU REQUIRED TO NOTIFY OF ABUSE TO AUTHORITIES?

20.1 Each State and Territory in Australia has reporting requirements for certain people and organisations to notify where there is suspected *Child Abuse* or other abuse of children.

20.2 Attachment L contains a summary ¹ of the grounds on which persons to whom this *By-Law* applies may have to report suspected abuse and the contact details for doing so.

¹ As at 1st July 2001

ATTACHMENT A**SKATE AUSTRALIA GENERAL CODE OF CONDUCT**

As a Member of *Skate Australia* or a *Member Club* you must meet the following requirements in regard to your conduct during any activity held or sanctioned by *Skate Australia* or a *Member Club* and in any role you hold within *Skate Australia*, a *Member Club*:

1. Respect the rights dignity and worth of others.
2. Be fair, considerate and honest in all dealing with others.
3. Be professional in, and accept responsibility for your actions.
4. Make a commitment to providing quality service.
5. Demonstrate a high degree of individual responsibility especially when dealing with persons under 18 years of age, as your words and actions are an example.
6. Be aware of, and maintain an uncompromising adherence to *Skate Australia* standards, rules regulations and policies.
7. Operate within the rules of Skate including national and international guidelines which govern *Skate Australia*.
8. Understand your responsibility if you breach, or are aware of any breaches of this Code of Conduct.
9. Do not use your involvement with *Skate Australia* to promote your own beliefs, behaviours or practices where these are inconsistent with those of *Skate Australia*.
10. Avoid unaccompanied and unobserved activities with persons under 18 years of age, wherever possible.
11. Refrain from any form of abuse towards others.
12. Refrain from any form of harassment towards, or discrimination of, others.
13. Provide a safe environment for the conduct of the activity.
14. Show concern and caution towards others who may be sick or injured.
15. Be a positive role model.

ATTACHMENT B**SKATE AUSTRALIA ADMINISTRATORS CODE OF CONDUCT**

As an administrator of *Skate Australia* or a Member Club you must meet the following requirements in regard to your conduct during any activity held by or under the auspices of *Skate Australia* or a Member Club and in any role you hold within *Skate Australia* or a Member Club:

1. Be fair, considerate and honest in all dealing with others.
2. Be professional in, and accept responsibility for your actions. Your language, presentation, manners and punctuality should reflect high standards.
3. Demonstrate a high degree of individual responsibility especially when dealing with persons under 18 years of age, as your words and actions are an example.
4. Resolve conflicts fairly and promptly through established procedures.
5. Maintain strict impartiality.
6. Maintain a safe environment for you and others.
7. Be aware of your legal responsibilities.
8. Be a positive role model for others.

ATTACHMENT C**SKATE AUSTRALIA ACCREDITED COACH EDUCATION PROVIDER CODE OF CONDUCT**

As a coach appointed by *Skate Australia* or a *Member Club* you must meet the following requirements in regard to your conduct during any activity held or sanctioned by *Skate Australia* or a *Member Club* and in any role you hold within *Skate Australia* or a *Member Club*:

1. Treat all students with respect at all times. Be honest and consistent with them. Honour all promises and commitments, both verbal and written.
2. Provide feedback to students and other athletes in a caring sensitive manner to their needs. Avoid overly negative feedback.
3. Recognise students' rights to consult with other coaches and advisers. Cooperate fully with other specialists (eg. sports scientists, doctors, physiotherapists etc).
4. Treat all students fairly within the context of their sporting activities, regardless of gender, race, place of origin, athletic potential, colour, sexual orientation, religion, political beliefs, socio-economic status and other condition.
5. Encourage and facilitate students' independence and responsibility for their own behaviour, performance, decisions and actions.
6. Involve the students in decisions that affect them.
7. Determine, in consultation with students and others, what information is confidential and respect that confidentiality.
8. Encourage a climate of mutual support among your students.
9. Encourage students to respect one another and to expect respect for their worth as individuals regardless of their level of play.
10. At all times use appropriate training methods which in the long term will benefit the students and avoid those which could be harmful.
11. Ensure that the tasks/training set are suitable for age, experience, ability and physical and psychological conditions of the students.
12. Be acutely aware of the power that you as a coach develop with your students in the coaching relationship and avoid any sexual intimacy with students that could develop as a result.
13. Avoid situations with your students that could be construed as compromising.
14. Actively discourage the use of performance enhancing drugs, the use of alcohol and tobacco and illegal substance.
15. Respect the fact that your goal as a coach for the student may not always be the same as that of the student. Aim for excellence based upon realistic goals and due consideration for the student's growth and development.

16. Recognise individual differences in students and always think of the student's long-term best interests.
17. Set challenges for each student which are both achievable and motivating.
18. At all times act as a role model that promotes the positive aspects of sport and of Skate by maintaining the highest standards of personal conduct and projecting a favourable image of Skate and of coaching at all times.
19. Do not exploit any coaching relationship to further personal, political, or business interests at the expense of the best interest of your students.
20. Encourage students and coaches to develop and maintain integrity in their relationship with others.
21. Respect other coaches and always act in a manner characterised by courtesy and good faith.
22. When asked to coach a student, ensure that any previous coach-student relationship has been ended by the student-others in a professional manner.
23. Accept and respect the role of officials in ensuring that competitions are conducted fairly and according to established rules.
24. Know and abide by Skate rules, regulations and standards, and encourage students to do likewise. Accept both the letter and the spirit of the rules.
25. Be honest and ensure that qualifications are not misrepresented.
26. Be open to other people's opinion and willing to continually learn and develop.

ATTACHMENT D

SKATE AUSTRALIA ACCREDITED COACH EDUCATION PROVIDER CODE OF ETHICS FORM

This form must be completed by any person seeking to be registered or re-registered to the Skate Coaches Australia.

I(print full name)

of

..... (street address)

..... (State)(postcode)

wish to register/re-register (please circle) for the following Skate Coaches Australia coaching qualification

Level 1 (please circle)

Level 2

Level 3

I agree and declare that:

1. I have read the *Skate Australia* Member Protection By- Law and in particular the *Skate Australia* Coaches Code of Conduct and agree to comply with them.
2. I acknowledge that penalties enforced against me may include de-registration of my accreditation if I commit an offence under *this By-Law* which includes a breach of the Coaches Code of Conduct.

Signature:

Date:

PLEASE RETURN THIS FORM ONCE SIGNED TO
SKATE AUSTRALIA
PO BOX 721
BEENLEIGH 4207

ATTACHMENT E**SKATE AUSTRALIA ACCREDITED OFFICIALS EDUCATION PROVIDER CODE OF CONDUCT**

As a official appointed by *Skate Australia* or a *Member Club* you must meet the following requirements in regard to your conduct during any activity held or sanctioned by *Skate Australia* or a *Member Club* and in any role you hold within *Skate Australia* or a *Member Club*:

Sports Officials' Code Of Conduct.

1. Place the safety and welfare of the participants above all else
2. Accept responsibility for all actions taken
3. Be Impartial
4. Avoid any situation which may lead to conflict of interest
5. Be courteous, respectful and open to discussion and interaction
6. Value the individual in sport
7. Seek continual self improvement through study, performance appraisal, and regular updating of competencies
8. Encourage inclusivity and access to all areas of officiating
9. Be a positive role model in behaviour and personal appearance
10. Refrain from any form of personal abuse towards athletes
11. Refrain from any form of sexual harassment towards athletes
12. Show concern and caution towards sick and injured athletes

ATTACHMENT F

SKATE AUSTRALIA ACCREDITED OFFICIALS EDUCATION PROVIDER CODE OF ETHICS FORM

This form must be completed by any person seeking to be registered or re-registered as a *Skate Australia* official.

TO: Skate Australia

I, (full name) of
..... (address)

I am seeking registration / re-registration (please circle) for the following National Officiating Accreditation Scheme (NOAS) qualification:

..... (level) (sport)
..... (discipline)

I agree to the following terms:

1. I agree to abide by *Skate Australia's* Code of Conduct overleaf
2. I Acknowledge that *Skate Australia* may take action against me, if I breach the code of ethics. (I understand that *Skate Australia* are required to implement a complaints handling procedure in accordance with the principles of natural justice, in the event of an allegation against me)
3. I acknowledge that penalties enforced against me may include de-registration from the National Officiating Accreditation Scheme.

Please refer to the *Harassment- free Sport Guidelines* available from the *Australian Sports Commission* or contact *Skate Australia* if, you require more information on harassment issues.

Signed: Dated:

(Parent if under 18 years of age)

ATTACHMENT G**SKATE AUSTRALIA PARTICIPANTS CODE OF CONDUCT.**

As an Athlete in any activity held by or under the auspices of *Skate Australia or a Member Club* you must meet the following requirements in regard to your conduct during any such activity or event

1. Respect the rights, dignity and worth of fellow athletes, coaches, officials and spectators.
2. Refrain from conduct which could be regarded as sexual or other harassment towards fellow athletes and coaches.
3. Respect the talent, potential and development of fellow squad athletes and competitors.
4. Care and respect the equipment provided to you as part of your program.
5. Be frank and honest with your coach concerning illness and injury and your ability to train fully within the program requirements.
6. Conduct yourself in a professional manner relating to language, temper and punctuality.
7. Maintain high personal behaviour standards at all times.
8. Abide by the rules and respect the decision of the umpire, match referee or other adjudicator, making all appeals through the formal process and respecting the final decision.
9. Be honest in your attitude and preparation to training. Work equally hard for yourself and your team.
10. Cooperate with coaches and staff in development of programs to adequately prepare you for competition at the highest level.

ATTACHMENT H

SKATE AUSTRALIA PARENT / GUARDIAN CODE OF CONDUCT

As a parent / guardian of a participant in any activity held by or under the auspices of *Skate Australia or a Member Club* you must meet the following requirements in regard to your conduct during any such activity or event

1. Treating your child the same irrespective of them winning or losing.
2. Remembering that your child participates in Skate for their enjoyment not yours.
3. Trying to have fun when you are around your children at competitions. Well-directed humour can be a great de-stressor.
4. Looking relaxed, calm and positive on the sidelines.
5. Making friends with other parents at competitions.
6. Getting involved in appropriate ways if your child or the coach behaves in unacceptable ways during competitions.
7. Letting the coach do the coaching.
8. Understanding that children will benefit from a break sometimes and that involvement in other sports is okay.
9. Being there when the child performs poorly. Be an understanding listener rather than a critic, judge and/or fixer.
10. Being prepared to give your child some space so that he/she can grow and develop as an independent person.
11. Letting your child know that your love for them is not associated with their sporting performances.
12. Communicating with your child and asking them how they are really feeling about their sport and about competing in particular.
13. Occasionally letting your child compete without you being there and hovering over them.
14. Emphasising the good things your child did in preparing for and during the match/tournament.
15. Try to avoid:
 - Saying “we’re playing today”. Instead say “you’re playing today”. Give your child credit for accepting the responsibility of performing.
 - Getting too pushy or believe that you are indispensable. Let the coach do the coaching.
 - Living through your child’s performances.

- Turning away when your child performs.
- Turning away when your child's behaviour is unsportsmanlike.
- Telling your child what he/she did wrong after a tough match.
- Making enemies with your child's opponents or family during a match/tournament/competition.
- Making your child feel guilty by reminding them about all the time, money and sacrifices you are making for his or her sport.
- Thinking of your child's sporting performances as an investment for which you expect a return.
- Badgering, harassing or use sarcasm to motivate your child.
- Comparing your child's performances with those of other children.
- Forcing your child to go to training. If they are sick of training find out why and discuss it with them.

ATTACHMENT I

AUTHORISATION FOR POLICE CHECK FORM

I(print full name)

previously known as (maiden or former names)

of

..... (address)

Aged: years

Born on at

Drivers Licence No:.....

Request you to make available to such person as is authorised by this policy to receive such information from the

- (a) Federal Police; and
- (b) the **[insert relevant State]** Police Service

of the details of any convictions, charges laid or investigations commenced that the Police Service has in its possession with reference to me.

..... (signature)

.....(witness signature)

..... (date)

ATTACHMENT J

PROHIBITED PERSON DECLARATION

The Skate Australia ("SA") Member Protection *By-Law* makes it an offence for a *Prohibited Person* (defined as a person who has been convicted of a *Serious Sex Offence*) to work or seek work in the following roles:

- coaches who are appointed or seeking appointment (whether employed, contracted or otherwise) for reward;
- volunteer coaches appointed or seeking appointment, who will or are likely to travel away with teams of players under 18 years of age; and
- persons appointed or seeking appointment to a role in which that person is likely to have individual and unsupervised contact with players under 18 years of age (for example, a team manager).

The SA Member Protection *By-Law* also makes it an offence to appoint, or continue to appoint, a person to a role set out above:

- without first obtaining this declaration; or
- where this declaration reveals the person is a *Prohibited Person*.

The SA Member Protection *By-Law* defines a *Serious Sex Offence* as means an offence involving sexual activity or acts of indecency including but not limited to:

- Rape
- Indecent assault
- Sexual assault
- Assault with intent to have sexual intercourse
- Incest
- Sexual penetration of child under the age of 16
- Indecent act with child under the age of 16
- Sexual relationship with child under the age of 16
- Sexual offences against people with impaired mental functioning
- Abduction and detention
- Procuring sexual penetration by threats or fraud
- Procuring sexual penetration of child under the age of 16
- Bestiality
- Soliciting acts of sexual penetration or indecent acts

- Promoting or engaging in acts of child prostitution
- Obtaining benefits from child prostitution
- Possession of child pornography
- Publishing child pornography and indecent articles

Declaration

I am aware that I am ineligible to work or seek work in the roles set out above if I have been convicted of a *Serious Sex Offence*, as defined in the SA Member Protection *By-Law*.

I have read and understood the above information in relation to the SA Member Protection *By-Law* and understand my responsibilities and obligations under it.

I declare that I am not a person prohibited under the SA Member Protection *By-Law* from working or seeking work in the roles set out above.

I acknowledge that I am required to advise the President of the organisation appointing me, immediately upon becoming a *Prohibited Person*.

Name:Signature:Date:.....

Note: Seek legal advice if you are unsure of your status.

ATTACHMENT K

CHILD PROTECTION LEGISLATION REQUIREMENTS

BACKGROUND

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

In New South Wales, Queensland, Western Australia, Victoria and South Australia child protection legislation places specific requirements upon individuals and organisations involved in a range of areas including sport and recreation. The Northern Territory, Australian Capital Territory and Tasmania governments are currently reviewing their child protection legislation. We will add new requirements or any amendments to existing requirements in this *By-Law* as they are introduced.

Please be aware that state and territory child protection requirements may apply to individuals and organisations originating outside of the states with the legislation in place. For example, if one of our state associations or affiliated clubs takes junior players into New South Wales for training camps, competition or other activities, those travelling with the teams must comply with the NSW legislative requirements.

Please note that the state specific child protection requirements apply despite the existence or absence of *our Member Protection By-Law*.

As part of *Skate Australia's* commitment to protecting the safety and welfare of children and young people involved in *Skate Australia* activities. *Skate Australia* requires the requirements set out in Attachments K1 to K5 be met.

ATTACHMENT K1: QUEENSLAND BLUE CARD REQUIREMENTS

This information is subject to change at any time. Refer to ***the Queensland Commission for Children and Young People and Child Guardian's (Commission) website: www.bluecard.qld.gov.au or contact 1800 113611 if you have any queries about your obligations under their legislation. This information was updated on 1 April 2006 and is provided as a guide only.***

In Queensland the *Commission for Children and Young People and Child Guardian Act 2000* requires people who work with children under 18 years of age in certain categories of employment regulated by the Act, and people carrying on certain categories of business regulated by the Act to hold a blue card, unless specifically exempt.

When a person applies for a blue card the Commission conducts a Working with Children Check which is an assessment of a person's eligibility to work with children based on their criminal history, certain disciplinary information (if any) and investigative information (if any) held by the police commissioner. If a person is eligible for a blue card, the Commission issues a positive notice letter and a blue card which remains current for a period of 2 years.

Association/club requirements

Skate Australia is responsible for applying for a blue card on behalf of their paid employees and volunteers where the nature of their work falls under one of the categories regulated by the Act.

Interstate sporting organisations, associations and clubs visiting Queensland for sporting training camps, competition or other activities taking place in Queensland may also need to apply for a blue card if the nature of their activities falls under one of the categories in the Act.

People carrying on a regulated business are responsible for applying for a blue card if the activities of the business are regulated under one of the categories in the Act.

Relevant categories of employment regulated by the Act

Paid employees who commenced work in one of the following categories of employment after 1 May 2001 will need to apply for a blue card unless exempt under the relevant category:

- private teaching, coaching or tutoring
- sport and active recreation
- clubs and associations involving children
- child accommodation services (which incorporates billets).

Paid employees commencing employment in the following category need a blue card irrespective of when they commenced their employment – i.e. before or after 1 May 2001:

- schools - employees other than teachers and parents

Paid employees

Paid employees falling under one of the above listed categories of employment regulated by the Act need a blue card, unless exempt, if they work or are likely to work over a period of 12 months for at least:

- eight consecutive days, or
- once a week, each week, over four weeks, or
- once a fortnight, each fortnight, over eight weeks, or
- once a month, each month over six months.

Once a blue card application has been lodged, a paid employee can commence or continue to work in regulated employment while waiting for the outcome of their blue card application.

Volunteers

Volunteers working with children who fall under one of the above listed categories of employment regulated by the Act need a blue card, unless exempt, **before** they can commence the child related activity, regardless of how often they come into contact with children and young people.

Exemptions

The following people are exempt from the Working with Children Check and do not need a blue card:

- children under 18 who are volunteers (except trainee students required to work in regulated employment as part of their studies with an education provider such as a registered training organisation, or university);
- a volunteer guest of a school or a registered charity, corporation or incorporated association:
 - for the purpose of observing, supplying information or entertainment to 10 or more people, and
 - the activity is for 10 days or less on no more than two occasions per year, and
 - the person is unlikely to be physically present with a child without another adult being present, or
- an event volunteer performing the function of employment at a national or state event organised by a school or a registered charity, corporation or incorporated association (operating at a state or national level) for:
 - a sporting, cultural or skill based activity, and
 - the event is attended by more than 100 people, and
 - the work is for 10 days or less on no more than two occasions per year; and

- the person is unlikely to be physically present with a child without another adult being present.

In addition, the following specific exemptions apply under each category regulated by the Act. It is critical to note that the exemptions below apply to the specific categories of regulated employment and business as stated, and therefore are not transferable. For example, a 'registered teacher' is only exempt in the first two categories of regulated employment mentioned below, as that specific exemption does not apply to the remaining three identified categories of employment.

1. Schools - employees other than teachers and parents

- a 'registered teacher'; and
- a volunteer parent of a child attending the school.

2. Private teaching, coaching or tutoring

- a 'registered teacher'; or
- a person carrying out work in their capacity as an employee of an 'education provider' .

3. Sport and active recreation

- the employment takes place at an 'amusement park'; or
- the person provides the service or conducts the activity in their capacity as an employee of a 'government entity'; or
- a volunteer parent of a child to whom the services are provided; or
- a volunteer parent of a child in relation to whom the activities are conducted
- the services are provided, or the activities are conducted by or within a club or association or similar entity and are regulated under that category (See Item 4: Clubs and associations involving children)).

4. Clubs and associations involving children

- the person carries out the work in their capacity as an employee of a 'government entity'; or
- a volunteer parent of a child who receives the same or similar services to which the employment relates; or
- a volunteer parent of a child who participates in the same or similar activities to which the employment.

5. Child accommodation services (including billets)

- the 'child accommodation service' is being provided to a relative of the home stay provider;

- the work is carried out for a 'government service provider' that carries on a business which includes arranging a 'child accommodation service'; or
- the employment is organised by a school or a registered charity, corporation or incorporated association and is for 10 days or less and provided on no more than two occasions per year.

6. Relevant categories of business regulated by the Act

A person or a corporation carrying on the following regulated businesses in Queensland must also apply for a blue card:

- private teaching, coaching or tutoring
- child accommodation services including homestays (including billets)
- Sport and active recreation (which may include recreational activities such as sporting camps and programs (excluding amusement parks))

Exemptions

1. Private teaching, coaching or tutoring

- If the business is conducted by an education provider

2. Child accommodation services including homestays (including billets)

- If the business is conducted at a:
 - boarding facility; or
 - residential facility funded by the Commonwealth government, or the Department of Child Safety, Disabilities Services Queensland, Department of Communities, Qld Health; or licensed by the Child Protection Act; or
 - or another place mainly providing accommodation for children which is funded by the Commonwealth government or Education Queensland.

3. Sport and active recreation

- If the business takes place at an amusement park; or
- The activities are conducted by or within a club, association or similar entity and are regulated under that category (See Item 4).

Where the business is a corporation, **each person** whose principal place of residence is in Australia, who takes part in the management of the corporation needs a blue card.

A person carrying on a regulated business must hold a blue card **before** they commence the regulated activity regardless of how often they come into contact with children and young people.

Application forms

Blue card application forms for a paid employee, volunteer, or person carrying on a regulated business can be downloaded from www.ccyipcq.qld.gov.au. Volunteer applications are processed free of charge; there is a \$40 processing fee for paid employees and business applications.

Change in criminal history

If *Skate Australia* knows or reasonably suspects that an employee who commenced employment prior to 1 May 2001 and therefore does not require a blue card, has a criminal history relevant to their work with children or young people, *Skate Australia* can apply for a blue card for that person. In such a case, the relevant application form to submit is a 'current employee blue card application form'.

This requirement also applies to interstate sporting organisations that visit Queensland and apply to the Commission for a Working with Children Check.

Risk management

Amendments to the Act, effective January 2005, require organisations engaging paid employees or volunteers that need a blue card, and persons or organisations carrying on a business for which a blue card is required to develop and implement annually, a risk management strategy to promote the well-being of children in their care and protect them from harm.

The key elements an organisation needs to consider in creating a risk management strategy includes:

- a child protection policy, which outlines:
 - a Code of Conduct
 - recruitment, training and management procedures for staff
 - reporting guidelines and directions for handling disclosures or suspicions of harm, and
 - consequences to staff for non-compliance with the policy
- communication and support strategies, such as:
 - information sheets for staff, volunteers and parents about policies, procedures and Codes of Conduct, and
 - training materials and communication strategies which help staff, volunteers and parents identify risks of harm
- documentation of risk management processes including:
 - registers of staff
 - strategies and plans for high-risk and special events
 - complaints registers, and

- forms to ensure consistent handling of incidents, disclosures of harm, permissions and approvals for related activities.

ATTACHMENT K2: NEW SOUTH WALES REQUIREMENTS TO CHECK PEOPLE WORKING WITH CHILDREN

This information will change during 2006 once the Commission for Children and Young People Amendment Act 2005 is proclaimed. Refer to *the NSW Commission for Children and Young People website: www.kids.nsw.gov.au or contact 02 9286 7219 to ensure you have to date information. This information was updated 27 April 2006.*

All NSW clubs and associations who engage/employ people in child-related activities (in a paid or voluntary capacity) must meet the requirements of the Working With Children Check. This is a legal requirement. Interstate clubs and organisations that visit NSW and engage/employ people in child-related activities (in a paid or voluntary capacity) may also be required to complete a Working with Children Check with the NSW Commission for Children and Young People. We are required to:

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

13. Protect the privacy of any person who is checked and the confidentiality of any information obtained through the checking process.

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

Employment includes work done:

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

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

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

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

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

Reportable conduct is:

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

ATTACHMENT K3: WESTERN AUSTRALIA CHILD PROTECTION REQUIREMENTS

This information is subject to change at any time. Refer to the Department of Community Development Working with Children Screening Unit website www.checkwwc.wa.gov.au or contact 1800 883 979. This information was updated on 1 April 2006.

From 1 January 2006, certain people working with children in Western Australia will be required to have a Working with Children Check ("Check") – a national criminal history check and assessment of any record that appears as part of this check. The Check is compulsory under the *Working With Children (Criminal Record Checking) Act 2004*, and will be introduced progressively to different sectors over the next 5 years.

The Check will take into account convictions for any offence and charges for serious sexual and violent offences and will cost \$10.00 for volunteers and unpaid workers and \$50.00 for paid workers and self-employed people.

Applicants whose check is "successful" will be issued with either an 'assessment notice' in the form of an ID card which allows that person to work or volunteer with children across different types of 'child-related work'. Applicants whose Check is "unsuccessful" will be issued with a 'negative notice', which prohibits any child-related work. In some cases an Interim Negative Notice may be issued while the screening process is completed. This means that you must not start or continue that person in 'child-related work' while the notice is current, and you can only start or continue that person in child-related work if they are later issued an Assessment Notice.

The Screening Unit must notify the employer, where known, of the outcome of applications for a Check.

Assessment notices will be valid for three years, unless the person has a "relevant change" in criminal record. If this occurs, the person is required to report this to their employer, who must then inform the Screening Unit, and a reassessment of the record takes place. The Police may also inform the Screening Unit where a person in child-related work has had a relevant change in criminal record.

Who needs to apply for a Check

People doing **child-related work** must have a Check by the date required under the phasing-in arrangements. The definition of **child-related work**, under Section 6 of the *Working with Children (Criminal Record Checking) Act 2004* includes:

"Work is **child-related work** if the **usual duties** of the work involve, or are likely to involve, contact with a child in connection with:

- an educational institution for children;
- a coaching or private tuition service of any kind, but not including an informal arrangement entered into for private or domestic purposes;
- a club, association or movement (including of a cultural, recreational or sporting nature and whether incorporated or not) with a significant membership or involvement of children, but not including an informal arrangement entered into for private or domestic purposes;
- an overnight camp.

Note that categories of work not relevant to the activities of our sport have not been listed above. A full list of the categories of child-related work is available on the Working with Children website (www.checkwwc.wa.gov.au) or by calling the Screening Unit on (08) 6217 8100.

General exemptions

The following people are exempt from the legislation and will not need to have a Check:

- volunteers under 18 years;
- employers of and fellow employees working with young people, so long as they are not otherwise in child-related work;
- parents volunteering where their child is also involved (This exemption does not apply to parents volunteering in connection with overnight camps);
- Short-term visitors to WA, for 2 weeks after their arrival, and for no more than 2 weeks in a 12 month period;
- People who carry out child-related work on no more than 5 days in a calendar year (except those working in child care services).

Specific exemptions from certain categories of child-related work

Category	Parent Exemption	Other exemptions
Educational institution for children	Work carried out on a voluntary basis by a parent of a child who is enrolled at the educational institution	<u>WA College of Teaching members (for 2006 only)</u>
Coaching or private tuition service of any kind	Work carried out on a voluntary basis by a parent of a child to whom the service is being provided in connection with an activity in which the child is participating or ordinarily participates	<ul style="list-style-type: none"> • An informal arrangement entered into for private or domestic purposes • Coaching or private tuition provided to a class of 2 or more students that is not provided primarily for children
Club, association or movement (including of a cultural, recreational or sporting nature and whether incorporated or not) with a significant membership or involvement of children	Work carried out on a voluntary basis by a parent of a child who is involved or is ordinarily involved in some or all of the activities of the club, association or movement	An informal arrangement entered into for private or domestic purposes
an overnight camp, regardless of the type of accommodation or how	No parent exemption.	WA College of Teaching members, where overnight

many children are involved

camp is in connection with:

- Community kindergarten;
- Educational institution for children; or
- Coaching or private tuition service

Obligations of employers, including organisations using volunteers include:

- You must not employ a person in child-related employment on more than five days in a calendar year unless he or she:
 - has applied for a Check, or
 - already holds a current Assessment Notice
 by the date they are required to under the phasing-in arrangements.
- You must not employ someone in child-related employment if you are aware that he or she holds a Negative Notice or Interim Negative Notice.
- You must not employ a person in child-related employment if you are aware that the person has withdrawn his or her Check application.
- You must not employ a person in child-related employment if you are aware that he or she:
 - has a conviction or pending charge for a Class 1 or Class 2 offence, and
 - does not have a current Assessment Notice or an application for one that is still being considered.
- If an employee or volunteer reports a relevant change in criminal record to you, you must report this (in writing) to the Working with Children Screening Unit, as soon as practicable.
- If you receive a written request from the Working with Children Screening Unit, you must provide information or documents to show your compliance with your obligations as an employer.

It is okay for employers to start someone in child-related work once they have applied for a Check in line with the phasing-in arrangements (outlined below) and while the Check is being processed. The employer does not have to wait until the card is issued. Safeguards are in place to ensure that the Screening Unit notifies the employer if, in the mean time, a Negative Notice or Interim Negative Notice is issued, or if the person subsequently withdraws their application.

Phasing-in Arrangements

Checks are being phased-in over 5 years. If a person is carrying out child-related work and needs to apply for a Check, they must apply by the date required under the

phasing-in arrangements. The information provided below about phasing-in arrangements is general information only. Only those categories of child-related work relevant to our sport are listed. For full details of the phasing-in arrangements for Checks please see Factsheet 2 “When to apply for a Working with Children Check”, available at www.checkwwc.wa.gov.au, or by calling (08) 6217 8100.

Commencing in 2006

- Volunteers working with children aged 0 – 7 years in any category of child-related work.
- Self-employed people working with children in connection with **any category** of child-related work, **EXCEPT**
 - child care licensees and “managerial officers”
 - registered teachers working in educational settings
 - persons with an F or T drivers licence endorsement who carry out a transport service specifically for children
 - people providing coaching or private tuition services for a TAFE or a Registered Training Organisation.
- “New” paid employees (who are not public sector employees) who commence child-related work after 1 January 2006 in the following categories of child-related work:
 - coaching or private tuition services
 - clubs, associations or movements with a significant membership or involvement of children
 - overnight camps
 - children’s entertainment or party services

Commencing in 2007

- Volunteers working with children aged 8 – 12 years in any category of child-related work.
- “New” public sector employees who commenced child-related work after 1 January 2006.
- “New” paid employees who commenced work after 1 January 2006 in the following categories of child-related work:
 - Educational institutions for children
 - People providing coaching and private tuition services for a TAFE, Registered Training Organisation or education service provider registered under the *Education Service Providers (Full Fee Overseas Students) Registration Act 1991*.

Commencing in 2008

- Volunteers Working with Children aged 13 – 17 years in any category of child-related work.

Commencing in 2009-2010

- “Continuing” paid employees (including public sector employees) who have remained in the same child-related work they were in before 1 January 2006, and are still in that position.

ATTACHMENT K4: VICTORIA CHILD PROTECTION REQUIREMENTS

This information is subject to change at any time. Refer to the Department of Justice website: <http://www.justice.vic.gov.au> and follow the Working with Children Check link under Business Units or contact 1300 652 879. This information was updated 1 April 2006.

Under the *Working with Children Bill* (2005) the Victorian Working with Children Check (Check) will require individuals who work or volunteer with children in certain capacities in identified occupations and activities to undergo screening for criminal offences.

A person who has no relevant criminal or professional disciplinary history will be granted an assessment notice. That notice will entitle the person to undertake child-related work. A person deemed unsuitable to work or volunteer with children will be given a negative notice and cannot work in child-related work. A negative notice can be appealed to Victorian Civil and Administrative Tribunal (VCAT) provided the individual is not listed on the Sex Offenders Register or subject to an extended supervision order.

Who needs to apply for a Check

Any person who works in, or in connection with, in a paid or voluntary capacity, any of the 20 child-related occupational fields listed in the Act. This work must also usually involve (or be likely to involve) regular, direct contact with a child where that contact is not directly supervised. The following child-related categories are relevant to our sport.

- educational institutions for children (such as schools and some TAFE programs);
- clubs, associations or movements that provide services or conduct activities for or directed at children or whose membership is mainly comprised of children;
- coaching or private tuition services of any kind for children; and
- direct commercial provision (and not incidental or in support of other business activities) of gym or play facilities specifically for children.

Exemptions

The following people will not need to have a Check:

- individuals aged under 18
- volunteers involved in an activity in which their child ordinarily participates
- individuals working only with children who are close family relations
- secondary school students aged under 20 performing volunteer work arranged through the school where they are studying
- sworn members of Victoria Police
- teachers registered with the Victorian Institute of Teaching
- a visiting worker who does not ordinarily reside and perform child-related work in Victoria.

Phasing-in Arrangements

Checks are being phased in over the next five years, commencing in April 2006. The type of child-related work determines when people need to apply for a check. **At this stage it is anticipated that the sport sector will be phased in 2008/09.** More information on the phasing-in of Checks is available from www.justice.vic.gov.au.

Employer requirements

As an employer or volunteer organisation you must:

- ensure all employees or volunteers who are required to get a Check do so at the correct time, which is indicated in the phasing plan.
- where your employees or volunteers are not required to get a Check because their contact with children is directly supervised, ensure the supervisor has a Check unless an exemption applies. For example, the supervisor may be a registered teacher with the Victorian Institute of Teaching, making them exempt
- ensure that employees or volunteers issued with a Negative Notice do not undertake child-related work as defined by the Working With Children Act 2005.

As an employer or volunteer organisation you should:

- record your employee's and volunteer's unique Application Receipt Number received when they submit their application. The Act enables a person to continue or commence work while their application is pending
- confirm that your employees and volunteers have been issued with an Assessment Notice after Check applications have been assessed by the Department of Justice
- sight your employee's or volunteer's Working with Children Check Card and confirm the status of their Card Number to verify that they have passed the Check. You can do this online from 1 July 2006, or by calling 1300 652 872
- record your employee's or volunteer's Card Number, which is different from their Application Receipt Number
- develop internal processes in the event of an existing employee or volunteer being issued with an Interim Negative Notice or Negative Notice.

ATTACHMENT K5: SOUTH AUSTRALIAN CHILD PROTECTION REQUIREMENTS

This information is subject to change at any time. Refer to the Department of Families and Communities website www.familiesandcommunities.sa.gov.au or the South Australian Office for Recreation and Sport's website www.resport.sa.gov.au or contact 08 8416 6633 if you have any queries about your obligations under the legisla

Recent amendments to the *Children's Protection Act 1993*, in South Australia as per the *Children's Protection (Miscellaneous) Amendment Act 2005*, promote a whole of community responsibility to the care and protection of children and young people. Whilst yet to be proclaimed, new provisions relating to the establishment of child safe environments, facilitating effective criminal history checks and the extension of mandated notifiers, will all have an impact upon sporting and recreational organisations.

The new provisions will require government, non-government and volunteer organisations that are entrusted with the care of children or regularly come into contact with children to have strategies in place to prevent and minimise opportunities for abuse and to appropriately respond when abuse occurs or is suspected. Organisations will also be required to implement guidelines and processes that clearly outline effective and timely responses to child protection issues and steps of action.

Standards will be developed to assist organisations move towards creating safer environments for children. Requirements under the standards are likely to include:

- Codes of conduct and principles of good practice for working with children;
- Guidance on standards of conduct for adults in dealing with children;
- Advice on how to deal with cases of bullying or harassment of a child;
- Guidance on informing on cases of child abuse and neglect, or suspected abuse or neglect;
- Advice on the recruitment and supervision of staff of Government and non-government organisations;
- Guidance on how to handle procedures for complaints, and making the complaints process easier for children;
- Monitoring progress of child safe environments in Government and non-government sectors and periodic reporting; and
- Developing and issuing standards in dealing with information about the criminal history of employees and volunteers.

The amendments to the *Children's Protection Act 1993* **may** also require sport and recreation organisations to develop or comply with new criminal history check provisions. This **may** mean undertaking a criminal history check for any person in a prescribed position (including employees, volunteers, agents, subcontractors and contractors) who has:

- Regular contact/close proximity to children; or
- Supervision of such a person; or
- Access to children's records;

- Or else as prescribed by regulation.

Mandatory reporting is currently a requirement by law in South Australia. Mandatory reporting means that those people covered by the law must report reasonable suspicions of child abuse or neglect. Those currently mandated under the law include teachers, medical practitioners, health professionals, child care workers, day care providers, social workers and workers, volunteers and managers within government departments or non-government agencies that provide services to children. **Under the new legislation a person employed by, or volunteering in, organisations that provide sporting or recreational services for children will also be mandated.**

Throughout the year, further information and advice relating to proclamation and implementation of these provisions will be provided by the Office for Recreation and Sport in South Australia. Once proclaimed, penalties of up to \$10,000 will apply for non-compliance with the requirements under the legislation. ***Until this time recreation and sport organisations should continue to follow the generic child protection requirements and the risk management process set out in 'Child Protection in Sport - National Overview' document provided by the Australian Sports Commission.***

ATTACHMENT L

SUMMARY OF GROUNDS AND CONTRACTS FOR NOTIFICATION OF ABUSE

See Clause 20

GROUNDS	CONTACT DETAILS
<p>NSW: (1) where medical practitioner, person in a profession (including teaching, counselling, early childhood teaching) or Principal or Dep Principal of a school, has reasonable grounds to suspects that a child (under 16 yrs) has been abused or</p> <p>(2) person in their professional work or other paid employment delivers health care, welfare, education, children's services, residential services or holds a management position in an organisation the duties of which include direct responsibility for or direct supervision of the provision of health care, welfare etc, and that person has reasonable grounds to suspect a child is at risk of harm.</p> <p>Must report as soon as practicable.</p> <p>(1) In addition any person may report abuse of a child (under 17 years).</p> <p>(2) Children (Care & Protection) Act 1987</p> <p><i>Children (Care & Protection) Regulations 1996</i></p> <p><i>Children (Care & Protection) Act 1998</i></p>	<p>Director General, Mr Loftus Harris Level 35 Govt.Macquarie Bldg 1 Farrer Place Sydney ,NSW 2000 Phone (02) 9228 4787; or</p> <p>Dept of Community Services 164-174 Liverpool Rd Ashfield, NSW 2131 Phone (02) 9716 2222</p>
<p>QLD: where medical practitioner suspects on reasonable grounds the maltreatment or neglect of a child (under 17 yrs) which has or might subject a child to unnecessary injury, suffering or danger.</p> <p>Must report within 24 hours.</p> <p><i>Health Act 1937</i></p>	<p>Family Youth & Community Care GPO Box 806 Brisbane QLD 4001 Phone (07) 3224 8045</p>

<p>SA: where medical practitioner, nurse, dentist, psychologist, member of police force, social worker, teacher, or person employed or volunteer in agency which provides health, welfare education child care partly or wholly for children, or holds a management position in an organisation the duties of which include direct responsibility for or direct supervision of the provision of those services, suspects on reasonable grounds that a child (under 18 yrs) has been or is being abused (including sexual, physical, emotional) or neglected.</p> <p>Must report as soon as practicable.</p> <p><i>Children's Protection Act 1993</i></p>	<p>Department of Family & Community Services Family & Youth Services Phone (08) 8226 7000 Child Abuse Hotline 131478</p>
<p>TAS: any person who suspects on reasonable grounds that a child (under 17 yrs) has suffered maltreatment or there is substantial risk of maltreatment.</p> <p>Discretionary whether or not to report</p> <p><i>Child Protection Act 1974</i></p>	<p>Dept of Human Services Phone (03) 9616 7777</p>
<p>NT: any person who believes on reasonable grounds that a child (under 18yrs) has suffered or is suffering maltreatment (physical injury, emotional or intellectual impairment etc).</p> <p>Must report as soon as practicable</p> <p><i>Community Welfare Act 1983</i></p>	<p>Police or</p> <p>Child Protection Unit Child & Family Protective Services P O Box Casuarina NT (08) 8922 7111</p> <p>Minister for Health, Family & Community Services</p> <p>Stephen Dunhman MLA</p> <p>GPO Box 3146 Darwin, NT Phone (08) 8999 6065</p>
<p>VIC: where medical practitioner, psychologist, nurse, teacher, police, youth worker etc in course of duties forms the belief in reasonable grounds that a child (under 17 yrs) is in need of protection (suffers significant harm as result of physical or emotional injury, abuse, harm or the child's development is or is likely to be harmed etc).</p> <p>Must report as soon as practicable.</p> <p><i>Children & Young Persons Act 1989</i></p>	<p>Dept of Human Services Child Protection Services Preston Office 48-56 May St Preston VIC Phone (03) 9479 6222</p>

<p>WA: There is no legislation requiring reporting.</p>	
<p>ACT: where a person on reasonable grounds suspects there exists or has existed circumstances in respect of a child (under 18 yrs) that it considers appropriate that action should be Taken, may report such circumstances ; and</p> <p>Where a medical practitioner, dentist, nurse, teacher, police, or person employed to counsel children in a school, public servant whose duties relate to children, person providing childcare at licensed premises, suspects on reasonable grounds that a child (under 18yrs) has suffered physical injury (other than by accident) or has been sexually abused.</p> <p>Must report</p> <p><i>Children Services Act 1986</i></p>	<p>Child Youth and Family Affairs Phone (02) 6207 1069 (north of Canberra) Phone (02) 6207 1466 (south of Canberra)</p>

ATTACHMENT M

INVESTIGATION PROCEDURE: CHILD ABUSE

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

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

Step 1: Clarify basic details of the allegation

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

Step 2: Report allegations of a serious or criminal nature

- Any individual or organisation to which this policy applies, **should immediately report any incident of a serious or a criminal nature to the police and other appropriate authority.**
- If the allegation involves a child at risk of harm, the incident should immediately be reported to the police or other appropriate government agency. You may need to report to both the police and the relevant government agency.

- The relevant State or Territory authority should be contacted for advice if there is **any** doubt about whether the complaint should be reported.
- If the child's parent/s are suspected of committing the abuse, report the allegation to the relevant government agency.

Step 3: Protect the child

- The Member Protection Officer should assess the risks and take interim action to ensure the child's/children's safety. Some options that Skate Australia could implement include redeployment of the alleged offender to a non-child related position, supervision of the alleged offender or removal/suspension from their duties until the allegations are finally determined. Please be aware it is not the Member Protection Officer's role to actually undertake action such as redeploying someone – an Member Protection Officer should only recommend possible actions.
- The Member Protection Officer should also address the support needs of the person against whom the complaint is made. Supervision of the person should ideally occur with the knowledge of the person. If stood down, it should be made clear to all parties that are aware of the incident that this does not mean the person is guilty and a proper investigation still needs to be undertaken.

Step 4: Further clarify and investigate allegation

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

- Obtain other information that could assist in making a decision on the allegation.
- The information collected during the investigation should be made available to the relevant authorities.
- Strict confidentiality, impartiality, fairness and due process must be maintained at all times.

Step 5 – Record and analyse all information

- If an internal investigation was conducted under Step 4, the investigator will provide a report to the Skate Australia/Member State President.
- The decision-maker(s) will be the nominee of the Board of Skate Australia/Member State, and will remain separate and at arm's length from the investigator.
- The decision-maker will consider all the information and determine a finding. It will also recommend action and its rationale for the action.

Step 6: Undertake disciplinary action

- For incidents of a serious or criminal nature, consideration must be given to the findings of the police and/or the government agency before making a decision on disciplinary proceedings.
- If disciplinary action is to be taken, follow the procedures outlined in clause 18 of this By-Law.
- Implement any disciplinary decision recommended. The action should be immediate.
- Check with the relevant state government authority to see if you need to forward a report (e.g. the NSW Commission for Children and Young People requires notification of relevant employment proceedings).