



MID WEST ACADEMY OF SPORT - MEMBER PROTECTION POLICY

Adopted by Board – 19/12/2013

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PART A

Mid West Academy of Sport - Member Protection Policy

1 RATIONALE AND PURPOSE

- 1.1. The Mid West Academy of Sport (MWAS) is committed to fair and safe training, competition and development in all sports.
- 1.2. The MWAS is committed to providing a sport and work environment free of discrimination and harassment (sexual or otherwise), where individuals are treated with respect and dignity, and where children are protected from abuse. The MWAS will not tolerate behaviour which constitutes abuse, discrimination or harassment under any circumstances and will take disciplinary action against anyone who breaches the Member Protection Policy.
- 1.3. This Member Protection Policy aims to provide the best possible environment in which athletes, coaches, officials, service providers and employees including volunteers (members) can excel and discharge their responsibilities to ensure the peak performance of the MWAS.
- 1.4. For the purpose of this policy, the term 'member' extends beyond the membership of the MWAS, and includes the MWAS Board of Management, MWAS employees, MWAS volunteers, holders of MWAS scholarships (athletes, coaches and officials) and MWAS service providers.

2 CODE OF CONDUCT: Understanding Responsibilities - Encouraging Appropriate Behaviours

2.1 General Responsibilities

The MWAS expects all members (athletes, coaches, officials, service providers, employees including volunteers) will abide by the following Code of Conduct and to any other Codes of Conduct that the MWAS promotes. With regard to abuse, discrimination and harassment such members will:

- 2.1.1 not knowingly discriminate against, abuse, harass, ridicule or embarrass anyone covered by this Code of Conduct;
- 2.1.2 be fair, considerate and honest in all dealings with others;
- 2.1.3 treat all persons with respect, dignity and proper regard for their rights and obligations;
- 2.1.4 respect the privacy of other persons;
- 2.1.5 act at all times in a fair and sporting manner and in such a way as to ensure good relations within and between teams and other organisations;
- 2.1.6 not engage in sledging during competition;
- 2.1.7 discourage people not associated with the team from fraternising with team members during tournament, competitions and events, without the express authority of team management;
- 2.1.8 ensure that all under-age team members be accompanied and/or observed during sporting and associated activities;

- 2.1.9** refrain from intimate relations with members whom they have a supervisory role or power over;
- 2.1.10** refrain from any form of victimisation towards others;
- 2.1.11** conduct themselves in a proper manner to the complete satisfaction of MWAS and its delegates, so as not to bring themselves or MWAS into public disrepute or censure;
- 2.1.12** not disclose to any unauthorised person or organisation information that is of a confidential or privileged nature concerning an individual connected with the MWAS;
- 2.1.13** not promote, or pass on, exchange or publish information whereby that information may be of a confidential, offensive, scandalous, unsubstantiated or derisive type;
- 2.1.14** understand the possible consequences of breaching the MWAS Member Protection Policy; and
- 2.1.15** immediately report any breaches of the MWAS Member Protection Policy to the appropriate authority.

The following specific guidelines must also be followed.

2.2 Chief Executive Officer's Responsibilities

The Chief Executive Officer will ensure that:

- 2.2.1** the MWAS aims to provide and promote an environment free from abuse, discrimination and harassment in relation to its employment functions, its membership eligibility, its provision of goods and services;
- 2.2.2** the MWAS develops, distributes and implements the Member Protection Policy, and promotes the use of the complaints procedure contained within;
- 2.2.3** the MWAS is responsible for taking all reasonable steps to prevent abuse, discrimination and harassment ensuring its position is widely known through all levels of the organisation's activities;
- 2.2.4** appropriate procedures are known to handle abuse, discrimination, harassment and other complaints;
- 2.2.5** complaints shall be treated in an impartial, sensitive, fair, timely and confidential manner;
- 2.2.6** abuse, discrimination and sexual harassment reporting shall be encouraged and the policy and procedures are monitored and reviewed regularly.

2.3 Coaches' and Officials' Responsibilities

Coaches and Officials on Scholarship with MWAS will:

- 2.3.1** agree to abide by the Code of Conduct in this policy and the MWAS Coach and Officials Code of Conduct;
- 2.3.2** always use their position of power and authority to benefit athletes and MWAS;
- 2.3.3** understand what is meant by the terms abuse, discrimination, harassment, intimate relations and other terms set out in Appendices 1 and 3 and express this understanding in their behaviour towards all people to whom this Code of Conduct applies ;

- 2.3.4** make it clear to team members that any unlawful discrimination—including jokes, innuendo or sledging—based upon age, sex, race, physical or intellectual impairment, sexuality, marital status or pregnancy (or any other ground of discrimination covered by Federal / State / Territory anti-discrimination legislation) will not be tolerated;
- 2.3.5** be aware of athletes' special requirements, with the intention of reasonably accommodating them;
- 2.3.6** not look at, speak to or make contact with athletes in a manner which is unwelcome, intrusive, abusive, discriminatory or inappropriate in the circumstances;
- 2.3.7** not engage in intimate relations with athletes (see Appendix [1](#) and [3](#) — Definitions);
- 2.3.8** not unreasonably exclude or treat less favourably any player/athlete from playing activities or coaching activities on the basis his or her race, gender, gender history, age, marital / family status, sexuality, pregnancy, breast feeding, religion, political persuasion, or intellectual or physical impairment;
- 2.3.9** respond to members concerns or allegations of breaches of this Policy;
- 2.3.10** report suspect breaches of this Policy.

2.4 Athletes' Responsibilities

- 2.4.1** All persons who are scholarship holders of MWAS shall at all times act in a sporting manner, having regard to principles of fairness and common courtesy.

Athletes will:

- 2.4.2** understand what is meant by the terms abuse, discrimination, harassment and other terms set out in the Appendices [1](#) and [3](#), and express this understanding in their behaviour towards all people to whom this Code of Conduct applies;
- 2.4.3** co-operate with their team-mates, coach and opponents;
- 2.4.4** control their temper;
- 2.4.5** respect the rights dignity and worth of all participants regardless of their ability, gender or cultural background;
- 2.4.6** refrain from making bullying, derogatory or demeaning remarks about other people;
- 2.4.7** refrain from making racist or sexist jokes, or jokes about sexual preferences;
- 2.4.8** refrain from using anti-gay, anti-women or racist slurs;
- 2.4.9** not allow offensive pictures or graffiti to be visible;
- 2.4.10** refrain from looking at or touching anyone in ways that make them feel uncomfortable;
- 2.4.11** refrain from making uninvited sexual comments that offend, intimidate or humiliate;
- 2.4.12** not discriminate against, abuse or harass anyone else;
- 2.4.13** refrain from throwing tantrums on or off the field;

2.4.14 avoid intimate relationships with their coach (see Appendices [1](#) and [3](#) — Definitions);

2.4.15 respond to members concerns or allegations of breaches of this Policy;

2.4.16 report suspect breaches of this Policy.

3 CHILD PROTECTION STRATEGIES

The MWAS is committed to ensuring that the safety, welfare and wellbeing of children is maintained at all times during their participation in activities run by members and service providers. The MWAS aims to promote a safe environment to children and to assist members, athletes, coaches, officials and service providers to recognise, report and prevent child abuse. (Appendix [3](#), [4](#) and [6](#))

Any person involved in the instruction, leadership, management and/or coaching of any MWAS athletes(s) under the age of 18 years may be asked to undergo (police) screening procedures. ([Appendix 5](#))

3.1 Stakeholder Relations

MWAS will stipulate in stakeholder agreements that service providers and coaches that are eligible to hold a Working with Children check must do so. In addition, stakeholders are responsible for ensuring that they develop and implement effective policies and procedures that aim to deliver a suitable duty of care to MWAS athletes and to provide a reasonable level of preventative protection against abuse, or other forms of harm such as injury. Associations or clubs that provide services to MWAS athletes, either through the relationship with MWAS or by other means are strongly encouraged to adopt the member protection policy of their applicable State Sport Association.

3.2 Working with Children Checks

All employees of the MWAS who will potentially work with children are to hold a current Working with Children Check.

All employees or volunteers of sporting associations or contract service providers that will potentially work with children are to hold a current Working with Children Check. Sporting Associations and contract service providers are to provide the MWAS with a copy of the Working with Children checks of all relevant personnel prior to providing services to MWAS athletes.

3.3 Criminal History Checks

All MWAS employees are to provide a Criminal History Check. In the event where an employee holds a criminal record, the MWAS Board of Management will use discretion and will seek advice as necessary to assess whether the criminal history should disqualify the employee from working with MWAS. In making such a decision, the MWAS Board of Management will review the potential of risk to MWAS athletes, MWAS stakeholders and to the integrity and effective operations of MWAS. Under no circumstance will an individual that has been convicted of abuse, assault, illicit drug use or supply or an Anti-Doping offense be considered for employment with the MWAS.

3.4 Referee Checks and Recruitment

MWAS will carry out no less than two referee checks prior to appointing any new MWAS employees and it is essential that the referee checks seek information regarding the prior behaviour and the suitability of the prospective employee to work with children and athletes.

Wording regarding child protection is to be included in job advertisements and position descriptions.

3.5 Supervision

MWAS employees, coaches and other stakeholders should avoid situations where they are alone with a minor in a non-visible public place. Under no circumstances should one enter a change area when they are aware that a MWAS athlete is present.

During over-night travel and camps, athletes are not to sleep in the same room as MWAS coaches or other staff and there is to be a supervisor of both male and female genders present.

3.6 Protocol for Working with Athletes

The MWAS recognises that contract providers and coaches may need to physically touch athletes in order to most effectively perform duties. All such touching must:

- a. Be appropriate and legal;
- b. Be necessary; and
- c. Be with the permission of the athlete.

3.7 Qualifications

Contract service providers must be qualified to deliver the applicable services and must also hold industry accreditation membership if applicable.

3.8 Duty of Care

All MWAS employees, contractors, volunteers, coaches or other services providers must provide a reasonable duty of care to MWAS athletes and other stakeholders and should take all reasonable actions to prevent abuse, assault, injury or any other harm to MWAS athletes or to other stakeholders.

3.9 Promotion of Athlete Protection Policy

This policy is to be made publically available on the MWAS website and is also to be provided to all contract service providers and to the sport associations that hold a service level agreement with the MWAS.

3.10 Work Health and Safety

The MWAS Work Health and Safety Plan must be implemented in order to reduce the risk of injury to MWAS athletes or other stakeholders.

3.11 Media, Photographs and Video

The MWAS will not publish photos or video of children whose parent / guardian has not signed the MWAS Photographic Talent Release Form. In the event that a parent / guardian does not sign the form, the MWAS will not seek to mention the athlete in media or to publish any photos or videos of the athlete.

The MWAS may publish profiles of athletes, including photos on the MWAS website and/or in the media. No athlete contact details will be provided in such profiles or press releases. Athletes whose parent / guardian has not completed the MWAS Photographic Talent Release Form will not be included in such profiles and publications.

4 DISCIPLINARY ACTION

4.1 Disciplinary action will be taken by MWAS against anyone who is found to be in breach of this Member Protection Policy.

4.2 Disciplinary action will also be taken against anyone who victimises or retaliates against a person who has complained of abuse, discrimination or sexual harassment.

4.3 The discipline will depend upon the severity of the case, and may involve an apology, counselling, suspension, dismissal or any other forms of action deemed appropriate.

4.4 In most instances, child protection matters will have to be referred to the police or a family services authority.

5 CONFIDENTIALITY

The MWAS management and officers responsible for implementing this Member Protection Policy will keep confidential the names and details related to abuse, discrimination and/or harassment complaints, unless disclosure is necessary as part of the disciplinary or corrective process.

6 COMPLAINT PROCEDURES

The MWAS undertakes to develop appropriate complaint procedures to deal with any complaints about breaches of this Member Protection Policy promptly, seriously, sensitively and confidentially. (See Part [B](#) and [C](#))

The MWAS will deal with allegations involving abuse, suspected abuse of children promptly, sensitively and in accordance with this policy. ([Appendix 6](#))

7 MEMBER PROTECTION REVIEW AND APPROVAL

7.1 The MWAS Board of Management approves this policy on 19/11/2013

7.2 The MWAS Chief Executive Officer will ensure an appropriate review of the policy is conducted regularly.

PART B

Procedures for Handling Allegations Of Discrimination & Harassment

The Mid West Academy of Sport (MWAS) undertake to deal with any complaints brought to us concerning a breach of this Member Protection Policy sensitively, promptly and respecting the privacy rights of individuals concerned.

Should a complaint arise, the MWAS encourages the complainant to consider the following options:

1 PROCEDURAL STEPS

- 1.1 The complainant may wish to approach the person(s) causing the problem—and ask them to stop the behaviour. However if any laws were breached, it is essential that the matter is reported.
- 1.2 If the behaviour continues—or if it is not reasonable to approach the person—contact either the MWAS Chief Executive Officer, or a MWAS Director for advice.
- 1.3 If the complainant chooses to proceed, a designated Member Protection Mediator will investigate the complaint. This may be someone appointed within the association or from the Australian Sports Commission 'Member Protection Officers Network'. The Member Protection Mediator, in consultation with the MWAS Board of Management, determines whether to investigate the complaint further.
- 1.4 The purpose of investigation is to establish whether discrimination or harassment occurred and, if so, what action should be taken to resolve the matter. If the complainant requests the Member Protection Mediator to investigate the complaint, this Officer's role is to:
 - inform the alleged harasser, and interview both parties separately;
 - confidentially and impartially keep accurate records of the process;
 - attempt mediation/conciliation where appropriate; and
 - achieve resolution and follow-up.
- 1.5 If no resolution is achieved, the Member Protection Mediator will give all records to MWAS management, who will determine the appropriate course of action.
- 1.6 If the complainant chooses not to pursue or to withdraw the complaint, the MWAS nevertheless has a legal responsibility to maintain a harassment-free sporting environment and will investigate the matter.
- 1.7 If the complaint is not resolved, the complainant may put in writing to an external organisation for mediation and/or arbitration (eg the Federal / State / Territory Equal Opportunity Commission or anti discrimination agency, Australian Sports Commission or State Department of Sport and Recreation). This may be done with the support of a Member Protection Mediator.

2 RIGHT TO APPEAL

Both parties to a complaint have the right to appeal the decision and seek the recommendation of a panel if the matters of procedure, bias, or fairness are called into question. An appeals panel, made up of members other than those who formed the original review panel, should handle formal appeals.

3 EXTERNAL ACTION

Both complainant and alleged harasser may pursue advice or action from an external authority at any stage of the complaint procedure. The Federal / State / Territory equal opportunity or anti-discrimination agency is the authority responsible for receiving complaints of unlawful discrimination or sexual harassment.

PART C

Procedures For Handling Allegations Of Child Abuse

The Mid West Academy of Sport (MWAS) will deal with allegations involving the abuse, or suspected abuse, of children in a strictly confidential manner and with sensitivity. This is in the best interests of all parties involved. The matter should only be discussed within the Board of Management and with the Chief Executive Officer.

In all instances, the matter will have to be referred to the police or a family services authority. The person receiving the information on the allegation should consult these agencies if there is any doubt about whether an allegation should be reported. In such instances, it is not the responsibility of the MWAS to investigate the allegation. This should only be handled by the appropriate authorities (for example, the state child protection agency or police). Where the MWAS needs to make some inquiries to establish the basic facts, please follow the procedure in 1.2.

1 TYPES OF ALLEGATIONS

1.1 A person may suspect abuse of a child on reasonable grounds when:

- a child tells them they have been abused;
- someone else tells them a child has been abused;
- a child tells them they know someone who has been abused (often they are referring to themselves);
- they observe a child's behaviour and/or injuries, and their knowledge of children leads them to suspect abuse; or
- they observe a member's abuse of another member.

A MWAS athlete, coach, official, employee, service provider or Director may also receive allegations that:

- 1) a person in MWAS (for example, a coach) has abused a child (for example, a junior athlete);
- 2) a person in the MWAS (for example, a coach) has abused a child outside of MWAS' jurisdiction (for example, a junior athlete he or she coaches for a club); or
- 3) a person outside the organisation (for example, a teacher or family member) has abused a young member of the organisation.

These allegations may be made by the child, his or her parents, or another person involved in the MWAS. Where the allegation comes from is not as important as who the alleged offender and alleged victim are.

Allegations of types 1 and 2 will generally be the only ones about which the MWAS may have the right to make further inquiries in accordance with MWAS rules and regulations. An allegation of type 3 should, in all cases, simply be reported to the relevant authority and the organisation should consider any steps it can reasonably take to prevent that abuse, or similar incidents, occurring again.

2 PROCEDURES

Where allegations are made regarding child abuse or someone suspects a child has been abused, the person receiving the information must treat the matter with great sensitivity. The initial response of the person to whom the child confides is crucial to the wellbeing of the child. It is important for the person receiving information to:

- listen to and believe 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;
- ensure that what the child says is quite clear, but do not elicit detailed information about the sexual abuse;
- obtain and document the following information;
 - the child's name, age and address
 - the person's reason for suspecting abuse (that is, observation, injury or information
 - the person's assessment of danger posed to the child, including information relating to the alleged perpetrator
 - what arrangements, if any, exist for the immediate protection of the child and
 - what involvement, if any, other agencies have in dealing with the suspected incident;
- make direct and confidential contact with the Chief Executive Officer. Consult with the officer on how to proceed (for example, reporting to the relevant state authority) and how to make a confidential and factual written report; and
- ensure that there are procedures in place to protect the confidentiality of reports (paper and electronic versions).

If there is any doubt about whether the allegation should be reported, a relevant state authority (for example, police or a family services agency) must be consulted. However, if the person receiving the information on the allegation is a member of a profession required, or 'mandated', to report any suspected child abuse, then he or she must report it to the appropriate authorities.

The MWAS Board of Management will determine whether the alleged offender may be suspended pending the results of an investigation by the relevant authority.

Where an accredited coach has been permanently suspended from a position because it was found that he or she abused a child, the MWAS must inform the Australian Coaching Council so it can decide whether the coach has breached the Coach's Code of Ethics and should therefore be deregistered.

Where a matter has resulted in the suspension or dismissal of a person, the national, state, and regional bodies and clubs within the sport should be informed so that they can implement safeguards to prevent other clubs from engaging the services of the offender. Care should be taken with the way this is communicated to other

agencies to ensure that any statements made are not defamatory and that the identity of the victim is not unwillingly disclosed.

A coach or official may suspect that a child has been abused by a family member or someone outside the sport because of behavioural signs or comments by the child. In such instances, advice should be sought from a child protection agency if the information presented is inconclusive. If there are enough reasons to suspect child abuse, the matter should be formally reported to the appropriate child protection agency for investigation.

Source: Australian Sports Commission 'Protecting Children from Abuse in Sport 2000', pp. 19 - 21

APPENDIX 1: DEFINITIONS

Discrimination

In Australia there are state, territory and federal laws which protect people from certain forms of unlawful treatment, including discrimination because of your race, sex, sexuality, pregnancy, impairment, age, or marital status, in key areas of public life.

Discrimination can be direct or indirect.

A Direct Discrimination

Direct discrimination is treating a person less favourably than another person on the basis of race, sex, age, marital status, sexuality, pregnancy and impairment in the same or similar circumstances, or any other basis included in the 12 grounds of equal opportunity under the WA Equal Opportunity Act 1984.

Example:

A football association states that it will only consider granting transfers for players to go to another club if they are over 21 years of age. This practice directly discriminates against players under the age of 21.

B Indirect Discrimination

Indirect discrimination is imposing a requirement, condition or practice that is the same for everyone, but which has an *unequal or disproportionate* effect or result on particular groups. Unless this type of requirement is reasonable in all circumstances, it is likely to be indirect discrimination—even if there was never any intention to discriminate.

Example:

A piece of equipment in a gymnasium is adjusted to a height that would make it useable only by people whose height was at least 173cm. This could lead to indirect discrimination against women, as the height would mean that women would have more difficulty using the equipment than men.

Victimisation

Victimisation means subjecting a person or threatening to subject a person to any detriment or unfair treatment because that person has or intends to pursue their right (under anti-discrimination laws) to make a complaint or support another person in making a complaint.

Example:

A member of a club is threatened with non-renewal of membership after he/she states their intention to go to an equal opportunity agency to lodge a complaint of sexual harassment.

Harassment

Harassment can be unwelcome verbal or written comments, conduct, or gestures directed toward one or more people; the harasser knows or should reasonably be expected to know that this behaviour is insulting, intimidating, humiliating, malicious, degrading or offensive.

Harassment is a form of unfair discrimination. It can be an offence under State and Federal anti-discrimination laws, and in some cases criminal law.

Examples of harassment include:

- *written, verbal or physical abuse or threats*
- *unwelcome physical contact,*
- *the display of offensive materials,*
- *unwelcome sexual comments, jokes and propositions,*
- *homophobic comments and/or behaviours*
- *jokes or comments directed at a person's body, looks, age, race, disability, sexuality, marital status, pregnancy*

Harassment may be a single incident or repeated. It may be explicit or implicit, verbal or non-verbal, and it may include promises or threats in return for sexual favours. Although the intent may vary, if it is unwelcome and the effect is to offend, humiliate or intimidate, then the behaviour must stop.

Jokes and behaviours that are genuinely enjoyed and consented to by everyone present are not harassment. However, it is important to be aware that some people may silently tolerate behaviour they find offensive—especially if they hold a subordinate position relative to the group or individual engaging in the behaviour.

Sexual Harassment

Sexual harassment is unwelcome sexual behaviour, which makes the victim feel offended, intimidated or humiliated—and it is reasonable in the circumstances to feel that way.

Example:

Members of a team of rugby players continue to taunt a fellow worker about his homosexuality; even after it is clear that he finds the jokes offensive.

Disability

Disability refers to the total or partial loss of any function or part of the body (for example, faulty vision, speech impediment or hearing loss); the malfunction of any part of the body; the malformation or disfigurement of any part of the body; the presence of an organism which may cause disease (for example, HIV, hepatitis); permanent or temporary loss or imperfect development of mental faculties (except where attributable to mental illness) resulting in reduced intellectual capacity; a disorder or malfunction that results in a person learning differently from others; a disorder, illness or disease that affects a person's thought processes, perception of reality, emotions or judgement or that results in disturbed behaviour.

The term disability covers physical, intellectual and psychiatric conditions.

Example:

Ann suffered from carpal tunnel syndrome in her right hand. This meant that she could only play bowls with the use of a particular bowling aid. Fellow bowling club members claimed that this gave her an unfair advantage in competition; however, she argued that any attempt to play without the aid would subject her to discrimination on the basis of her disability.

Race Discrimination

The race of a person means the nationality, country or origin, colour or ancestry of the person or of any other person with whom he or she resides or associates.

Racial Discrimination

Racial discrimination involves a distinction, exclusion, restriction or preference based on race which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of any human right or fundamental freedom in the political, economic, social, cultural or any other field of public life.

Example:

A footballer complained of being subjected to regular racist comments during training and of not being selected in the A's despite his ability. He was told that his inclusion might lead to team disharmony.

Sexuality

Discrimination on the basis of sexuality means treating a person less favourably because of their heterosexuality, homosexuality, bisexuality or trans-sexuality.

Examples:

Nick works as a barman at his local football club. He complains that co-workers constantly ridicule him about his sexuality.

Bruce complains that he is not selected in the team because other teammates state they refuse to play with a homosexual.

Pregnancy

Discriminating against a woman because she is pregnant is unlawful.

Example:

The night after announcing she was pregnant, Gail was dropped from the swimming team—even though she was only ten weeks into her term and her doctor told her that her health was fine.

Age Discrimination

Age discrimination means treating a person unfairly because of their age.

Age discrimination often arises because of stereotypes and incorrect assumptions about people's abilities, based on how old or young they are. It can occur against people of any age, and deny them the opportunity for full participation.

Example:

Anna, 35, passed all fitness and entry requirements for a State netball team, but was not considered for selection by the coach, who told her: “You’re not going to last too long. All the best players are much younger than you. I don’t think you’ll fit in.”

Exceptions may occur (see Appendix 2—Exceptions/Exemptions).

Intimate Relations

Intimate sexual relationships between coaches and players—while not necessarily unlawful harassment—can have harmful effects on the player, on other players and coaches, and on the sport’s public image. Such relationships tend to be exploitative because there is usually a disparity between coaches and players in terms of authority, maturity, status and dependence.

Because there is always a risk that the relative power of the coach is a factor in the development of such relationships, coaches, officials, service providers and MWAS employees working at all levels must avoid such relationships.

The law is always the minimum standard for behaviour; sex with a minor, for example, is a criminal offence.

APPENDIX 2: EXCEPTIONS/EXEMPTIONS

Both State and Federal equal opportunity laws contain exceptions that allow certain kinds of lawful discrimination, for practical and commonsense reasons. Equal opportunity courts can also grant exemptions from equal opportunity laws, to allow Associations to lawfully discriminate in certain circumstances. For more information about this, Associations should contact their State/Territory equal opportunity or anti-discrimination agencies. Exceptions include:

Disability

Organisers of a sporting activity may restrict the participation of people with a genuine or particular disability. For example, it would be lawful for the organisers of a national selection trials or para-Olympic team to restrict the participation in those events to persons with a general or particular disability.

Sex

People of one sex may be excluded from participating in a competitive sporting activity in which the strength, stamina or physique of competitors is relevant. This does not apply to a sporting activity for children under the age of 12 years.

Age

It is lawful to hold competitions for relevant age groups such as Under 13, Under 18, Under 21, 35 and over. However, it is unlawful to select officials or coaches for sporting activities on the basis of age alone, if that person can effectively undertake the task. For example, if a sport set a minimum age for coaching or officiating duties or for attending an accredited coaching course, it would have to demonstrate that the age limit is necessary because the position requires a certain level of maturity, experience in the sport or professional qualification that would not be held by someone under 16.

Pregnancy

Anti discrimination laws around Australia have made discrimination on the ground of pregnancy unlawful and this includes participation in sport. It could therefore be unlawful for a club or association to prevent a woman from playing her chosen sport while pregnant.

The decision of whether or not a pregnant woman should continue playing and for how long should be hers to make in consultation with her doctor and her club.

Under some circumstances exceptions may apply to pregnant employees or volunteers.

HIV/AIDS

It is only lawful to discriminate on the basis of a person's HIV/AIDS status where the discrimination is reasonably necessary to protect the health and safety of other persons. However, this exception only rarely applies.

Example:

A basketballer informed his coach that he had been diagnosed as HIV positive. Upon hearing this, the coach dropped the player from the team. There was no assessment made in relation to the player's ability to compete effectively, and necessary precautions to protect both his health and safety and other player's health and safety.

APPENDIX 3: DEFINITION OF CHILD ABUSE IN SPORT

What is child abuse?

Child abuse is a term used to describe ways in which children are harmed, usually by adults and often by those they know and trust. It includes physical abuse, which results in non-accidental injuries; emotional abuse, which causes psychological or emotional damage; neglect, which results in ill health; and sexual abuse, which includes a range of sexual activity and exploitation of children, that can result in physical or psychological damage.

Child abuse is illegal in all states and territories of Australia. Although the legal definition of a 'child' varies from jurisdiction to jurisdiction and from legislation to legislation, the ASC feels that the policies of sport, recreation and fitness organisations which deal with protecting children should cover people 17 years of age and younger.

Child abuse in sport

During sport, various behaviour occurs that amounts to child abuse. Unfortunately while most people know that some behaviour is 'bad coaching', they often don't know that some bad behaviour can also be abuse. Here are examples of behaviour that is abuse.

Non-accidental injury to children participating in sport

Most children will collect cuts and bruises in their daily lives, and certainly through their involvement in sport, but some physical injuries or bruising can only be caused non-accidentally.

Inappropriate training People working with children in sport must tailor training programs to ensure that they are appropriate for the strength, coordination, skill and emotional levels of children. Training techniques that give extra physical loads to children as 'punishment' can be dangerous to the health of children who are already physically tired.

Effective training techniques will also take into account the emotional individuality of children. Children should be emotionally prepared for an activity in order to perform it confidently and without anxiety. They respond differently to the challenges of sport, and what is 'pushing' (by a coach or a parent) to one child may be emotionally destructive to another. Physical abuse also includes giving children illegal or inappropriate drugs that may affect their physical or psychological development.

Emotional abuse It is not appropriate to address children in a derogatory way when their performance is not to the coach's liking. Nor is it appropriate to demean their performance in front of others or, even if speaking to them individually, to refer to physical attributes (for example, weight or clumsiness) to make them perform better. Coaches should ensure that they do not give only negative feedback on performance. Providing constructive feedback on the negatives and praise for the positives is a more appropriate way to coach children.

Inappropriate touching In some sports it may be necessary for a coach or trainer to have physical contact with children in order to demonstrate technique. Such contact must be necessary and appropriate to the situation and always professional. Inappropriate touching can include lengthy or uninvited contact.

Sexual abuse Sexual abuse is a criminal offence involving a range of sexual activity between a child and a person who is older, or has power, authority or control over a child. This abuse encompasses a wide range of behaviour from, for example, engaging a child in sexual conversation, showing sexual pictures to a child and exposing one's genitals, to sexual touching and invasive sexual acts.

Sexual abuse can involve forcing, tricking, bribing, threatening, emotionally manipulating or pressuring a child into sexual activity even if the child has, or appears to have, consented. Note that children 16 years and under cannot legally consent to sexual acts.

Sport is vulnerable to child sexual abuse because coaches, managers, officials and volunteers are able to assert authority and power over children. Unfortunately, sexual offenders take advantage of such positions of trust and authority.

Other sensitive areas People working with children in sport should be aware of age sensitivities and cultural or religious differences, and how these may change the way people look at certain activities. For example, privacy in showers or at athlete weigh-ins could be an issue. Working with children with physical and emotional disabilities may also require careful and sensitive handling.

Coaches from diverse backgrounds, and people working with children of diverse origins, will need to adjust work practices and be sensitive to the different way in which their actions and behaviour may be seen.

Source: *Australian Sports Commission 'Protecting Children from Abuse in Sport 2000'*, pp. 3 - 4, 2.1 & 2.2