

# HAWKESBURY & DISTRICT BASKETBALL ASSOCIATION INC. Child Protection Policy Update 2016



## Child Protection

Child protection is about keeping children and young people safe from abuse and protecting them from people who are unsuitable to work with children.

All children have a right to be safe when participating in sport and recreation activities. While there is no national legislation, all states and territories have child protection laws to keep children safe and protect them from abuse.

Recent reviews of legislation in most states and territories has resulted in an increased requirement by sport and recreation clubs and associations to have a greater awareness of child abuse, a commitment to child safe practices and the ability to respond to suspicions of harm.

## Mission Statement

Basketball is everyone's game and is one of the most popular games in the world, with 214 nations participating and around 1.2 million Australians participating in the game each year. Basketball Australia's mission is to ignite Australia's passion for basketball through growth, success and unity. Critical to the achievement of this mission is the provision of safe and inclusive environments wherever basketball is played. (*Basketball Australia Member Protection By-Law – 19 October 2015*)

Hawkesbury Basketball Association is committed to the safety and well-being of all children and young people who participate in our sport or access our services. We support the rights of the child and will act at all times to ensure that a child-safe environment is maintained. Hawkesbury Basketball association acknowledges the valuable contribution made by our staff, members and volunteers and we encourage their active participation in providing a safe, fair and inclusive environment for all participants. We aim to continue this and to take measures to protect the safety and welfare of children participating in our sport by:

### **Identifying and analysing risk of harm**

Hawkesbury Basketball Association will develop and implement a risk management strategy, including a review of our existing child protection practices, to determine how child-safe our organisation is and to identify any additional steps we can take to minimise and prevent the risk of harm to children because of the actions of an employee, volunteer or another person.

### **Developing codes of behaviour**

Hawkesbury Basketball Association has developed and promotes a code of behaviour that sets out the conduct we expect of adults when they deal and interact with children involved in our sport, especially those in our care. We have also implemented a code of behaviour to promote appropriate conduct between children.



### **Choosing suitable employees and volunteers**

Hawkesbury Basketball Association will take all reasonable steps to ensure that we engage suitable and appropriate people to work with children, especially those in positions that involve regular unsupervised contact with children. This will include using a range of screening measures.

Hawkesbury Basketball Association will ensure that Working with Children Checks are conducted for all employees and volunteers who work with children, where an assessment is required by law. If a criminal history report is obtained as part of their screening process, Hawkesbury Basketball Association will handle this information confidentially and in accordance with the relevant legal requirements.

### **Supporting, training, supervising and enhancing performance**

Hawkesbury Basketball Association will ensure that all our employees and volunteers who work with children have ongoing supervision, support and training. Our goal is to develop their skills and capacity and to enhance their performance so we can maintain a child-safe environment.

### **Empowering and promoting the participation of children**

Hawkesbury Basketball Association will encourage children and young people to be involved in developing and maintaining a child-safe environment for our sport.

### **Reporting and responding appropriately to suspected abuse and neglect**

Hawkesbury Basketball Association will ensure that all employees and volunteers are able to identify and respond appropriately to children at risk of harm and that they are aware of their responsibilities under state laws to make a report if they suspect on reasonable grounds that a child has been, or is being, abused or neglected.

Further, if any person believes that another person or organisation bound by this By-Law is acting inappropriately towards a child, or is in breach of this policy, he or she may make an internal complaint.

### **Taking images of children**

Images of children must not be used inappropriately or illegally. Hawkesbury Basketball Association requires that individuals and associations, wherever possible, obtain permission from a child's parent/guardian before taking an image of a child that is not their own. They should also make sure the parent/guardian understands how the image will be used. To respect people's privacy, we do not allow camera phones, videos and cameras to be used inside changing areas, showers and toilets.

When using a photo of a child, Hawkesbury Basketball Association will not name or identify the child or publish personal information, such as residential address, email address or telephone number, without the consent of the parent/guardian. We will not provide information about a child's hobbies, interests, school or the like, as this can be used by paedophiles or other persons to "groom" a child.

We will only use images of children that are relevant to our sport and we will ensure that they are suitably clothed in a manner that promotes participation in the sport. We will seek permission from the parents/guardians of the children before using the images.

## **Anti-discrimination and harassment**

Hawkesbury Basketball Association is committed to providing an environment in which people are treated fairly and equitably and that is, as far as practicable, free from all forms of discrimination and harassment. We recognise that people may not be able to participate, enjoy themselves or perform at their best if they are treated unfairly, discriminated against or harassed.

### **Discrimination**

Unlawful discrimination involves the less favourable treatment of a person on the basis of one or more of the personal characteristics protected by state or federal anti-discrimination laws. The personal characteristics protected by anti-discrimination laws include attributes such as age, disability, gender and race.

#### **Discrimination can be either direct or indirect.**

- **Direct** discrimination occurs if a person treats, or proposes to treat, a person with a protected personal characteristic unfavourably because of that personal characteristic.
- **Indirect** discrimination occurs if a person imposes, or proposes to impose, a requirement, condition or practice that will disadvantage a person with a protected personal characteristic and that requirement, condition or practice is not reasonable.

For the purposes of determining discrimination, the offender's awareness and motive are irrelevant.

### **Harassment**

Harassment is any unwelcome conduct, verbal or physical, that intimidates, offends or humiliates another person and which happens because a person has a certain personal characteristic protected by State or Federal anti-discrimination legislation. The offensive behaviour does not have to take place a number of times, a single incident can constitute harassment. Sexual harassment is one type of harassment. Sexual harassment is unwelcome conduct, remarks or innuendo of a sexual nature. It covers a wide range of behaviours and can be verbal, written, visual or physical. Sexual harassment is not limited to members of the opposite sex.

#### **Prohibition against discrimination and harassment**


Hawkesbury Basketball Association prohibits all forms of harassment and discrimination based on the personal characteristics.

Any person who believes they are being, or have been, harassed or discriminated against by another person or organisation is encouraged to raise their concerns with us.

### **Intimate relationships**

Hawkesbury Basketball Association understands that consensual intimate relationships (including, but not limited to sexual relationships) between coaches or officials and adult athletes may take place legally. However, this By-Law will help ensure that the expectations of coaches or officials are clear and, to ensure that if an intimate relationship does exist or develop between a coach or official and an adult athlete, that relationship will be managed in an appropriate manner.

Coaches and officials are required to conduct themselves in a professional and appropriate



manner in all interactions with athletes. In particular, they must ensure that they treat athletes in a respectful and fair manner, and that they do not engage in sexual harassment, bullying, favouritism or exploitation.

Hawkesbury Basketball Association takes the position that consensual intimate relationships between coaches or officials and the adult athletes they coach should be avoided as they can have harmful effects on the athlete involved, on other athletes and coaches and on the sport's public image. These relationships can also be perceived to be exploitative due to the differences in authority, power, maturity, status, influence and dependence between the coach or official and the athlete.

We recommend that if an athlete attempts to initiate an intimate relationship with a coach or official, the coach or official should discourage the athlete's approach and explain to the athlete why such a relationship is not appropriate.

If a consensual intimate relationship does exist or develop between an adult athlete and a coach or official, the coach or official is expected to ensure that the relationship is appropriate and that it does not compromise impartiality, professional standards or the relationship of trust the coach or official has with the athlete and/or other athletes.

## What is Child Abuse?

Child abuse can be when someone does something harmful, or does not provide for or protect, a child or young person. Child abuse can cause long-lasting emotional, physical and behavioural damage.

Sport is a particularly vulnerable area for potential child abuse because it:

- involves a large number of people under the age of 18
- can involve overnight and away trips (e.g. training camps or competitions)
- usually involves close relationships between adults and children, where the adults are in positions of trust and able to assert authority and power over children.

Children and young people with special needs are particularly vulnerable to abuse. This may be because of difficulties in communicating, behavioural issues or physical limitations. They often require different staff-to-participant ratios and greater levels of assistance.



# Types of Child Abuse

The four main types of child abuse are:

## **Sexual abuse/sexual misconduct**

Any sexual act or sexual threat imposed on a child or young person.

For example, suggestive behaviour, inappropriate touching or voyeuristically watching an athlete shower or change clothes.

## **Physical abuse**

Non-accidental injury and/or harm to a child or young person, caused by another person such as a parent, care-giver or even an older child.

For example, physically punishing a young person for losing a game by hitting, throwing equipment, pushing or shoving.

## **Emotional abuse**

Behaviours that may psychologically harm a child or young person.

For example, threatening language, bullying, ridicule, personal abuse and comments designed to demean and humiliate.

## **Neglect**

Failing to provide a child or young person with basic physical and emotional necessities, harming them or putting them at risk of harm.

For example, keeping the best young player on-field to win the game despite having an injury or making children play in excessive heat.

## **Disclaimer**

These definitions and indicators have been included as a guide only. They do not replace the need for consultation with professionals who work in the area of child abuse.

## Indicators of Child Abuse

It is important that people working with children are aware of the indicators of abuse and have the confidence to respond to any indication that a child may have been abused.

Some indicators of child abuse are:

- bruising, particularly in the face, head or neck region
- multiple bruising or injuries - for ex, burns, scalds, sprains, dislocations or fractures
- injury left untreated
- differing versions of how an injury occurred
- child/relative advising of abuse
- a child, referring to someone else being abused, may mean him/herself
- sexual behaviour that is inappropriate for the age of the child
- nightmares/bedwetting/going to bed fully-clothed
- a high level of distrust of other people
- an inability to relate well with adults and/or children
- extreme attention-seeking behaviour, disruptive or aggressive behaviour and bullying
- seeking indiscriminate or inappropriate adult affection.

The presence of one indicator does not necessarily suggest that a child is the subject of abuse. People working with children need to consider the context in which the indicators are observed and use common sense. If you feel any doubt, contact your state or territory's child protection agency.

## Child Protection Laws Explained

There is no national legislation and child protection system. However each state and territory has child protection laws specifying responsibilities for both organisations and individuals who work or have contact with children.

Two aspects of child protection legislation most relevant to sport are reporting and screening processes. Some states also require risk management or other strategies to provide a child safe environment.

## Mandatory Reporting

Sporting personnel need to be aware that because of the large number of children participating in sport and the closeness of relationships formed, they may come across children being abused or who disclose their abuse to them. This abuse may be occurring within or outside of sport. Anyone who suspects, on reasonable grounds, that a child or young person is at risk of being neglected or abused, should [Contact](#) their state or territory child protection agency without delay to report their concerns.



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# Reporting Child Abuse

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## New South Wales

### Legislation

#### What gets reported?

A report should be made to Community Services if you suspect that a child or young person is at risk of significant harm. This means you have current concerns for the safety, welfare or wellbeing of a child or young person. You don't have to be certain, you only need to make sure your concerns are well founded and based on information you know or have from a reliable source.

A child or young person is at risk of significant harm if the circumstances that are causing concern for the safety, welfare or well-being of the child or young person are present to a significant extent.

#### Who is required to report?

If you believe a child is in immediate danger or in a life-threatening situation, contact the NSW Police immediately by dialling **000**.

**Anyone** (regardless of whether they are mandatory reporters required to do so by law) who suspects, on reasonable grounds, that a child or young person is at risk of significant harm *should* report it to the Child Protection Helpline on **132 111** 24 hours a day, 7 days a week.

In NSW, individuals working within sporting or recreation organisations are **not** mandatory reporters (i.e. they are not required by law to report suspicions of a child at significant risk of harm).

For more information about mandatory reporting, go to the [Family and Community Services – Community Services website](#).

# Action

## How do I make a report?

Mandatory reporters are encouraged to use the Mandatory Reporter Guide, to guide their decision making, such as whether or not to report to the Child Protection Helpline.

Alternatively, you can call the Child Protection Helpline on **133 627**.

**Members of the public** can also use the online Mandatory Reporter guide and make a report about a child or young person at risk of harm to the Child Protection Helpline, 24 hours per day, 7 days per week, on **132 111** (TTY 1800 212 936).

## COMPLAINTS PROCEDURES

### Handling complaints

Hawkesbury Basketball Association aims to provide a simple, confidential and trustworthy procedure for resolving complaints based on the principles of natural justice.

Any person (a complainant) may report a complaint about a person, people or organisation bound by this policy (respondent) if they feel they have been harassed, bullied or discriminated against or there has been a breach of this By-Law.

In the first instance, complaints should be reported to:

- the Child Protection Officer
- the President (or their nominee) of Hawkesbury Basketball Association
- another appropriate person within the association (e.g. team manager, coach etc.).


A complaint may be handled informally or formally. The complainant will usually indicate his or her preferred option unless the Child Protection Officer/ President (or their nominee)

considers that the complaint falls outside this policy and should be handled another way. For example, the law may require that the complaint/allegation be reported to an appropriate authority.

All complaints will be dealt with promptly, seriously, sensitively and confidentially. Our procedures for handling and resolving complaints are outlined in Attachments below.

Individuals and organisations may also seek to have their complaint handled by an external





agency under anti-discrimination, child protection, criminal or other relevant legislation.

### **Improper complaints and victimisation**

Hawkesbury Basketball Association aims to ensure that our complaints procedure has integrity and is free of unfair repercussions or victimisation against the person making the complaint.

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

If at any point in the complaint handling process it is considered that a complainant has knowingly made an untrue complaint, or the complaint is malicious or intended to cause distress to the respondent, the matter may be referred to the Tribunal for review and appropriate action, including possible disciplinary action against the complainant.

## **Useful information**

### **Child-safe environments**

There are currently no legislative requirements within NSW relating to child-safe environments other than conducting the Working With Children Check if you provide child-related employment. Introducing child-safe measures will help your organisation manage risks and keep children safe.

Child-safe environment strategies are put in place to prevent and minimise opportunities for child abuse within your organisation including preventing offenders from gaining access to your organisation. They include ensuring your staff and volunteers understand their child protection obligations and that staff and volunteers know who to go to should they have suspicions a child may be at risk of harm.

Organisations working to create child-safe environments and strengthen their environment are committed to and understand the importance of children's safety.


### **What does establishing a child-safe environment involve?**

Basically it requires putting strategies in place to prevent offenders from gaining access to your organisation and reducing opportunities for abuse.

These strategies include:

**Understanding** the different types of child abuse.

**Identifying** potential risks and dangers to children (e.g. going away on camps) and managing those risks.



**Developing** guidelines and processes that clearly outline how to respond to child protection issues.

**Choosing your staff with care.**

- State your commitment to a child safe environment when advertising vacant positions.
- Seek criminal history checks for employees/volunteers working with children.
- Conduct referee checks (particularly with previous child-related employers, if possible).

**WORKING WITH CHILDREN CHECK REQUIREMENTS**

Hawkesbury Basketball Association is committed to providing a child-safe environment. As part of this, we will recruit staff and volunteers who do not pose a risk to children. Employment screening and Working with Children Checks (WWCC) can involve criminal history checks, signed declarations, referee checks and other appropriate checks that assess a person's suitability to work with children and young people. WWCC laws are currently in place in all states and territories. The state WWCC requirements apply regardless of our national, state or club Member Protection Policies/By-Laws. Basketball Australia, and our state associations and clubs, will meet the requirements of all relevant state and territory WWCC laws.

Individuals travelling with children and young people to another state or territory in a work-related capacity must comply with the screening requirements of that particular state or territory.

**Nominating** a child protection officer or Member Protection Information Officer who people can trust and go to with concerns.

**Ensuring** that all staff (paid and volunteers) understand their mandatory/ethical reporting obligations for suspected child abuse.

**Ensuring** staff have a clear understanding of acceptable/ unacceptable behaviour and know who to contact to about concerns they may have.

**Talking** openly about the importance of ensuring the safety of children within your organisation.

## Resources

### Where can I get further information or resources on reporting?

- [NSW Family and Community Services – Community Services](#)
- [NSW Commission for Children and Young People](#)
- [Communities NSW - Sport and Recreation](#)
- [Child Wise – “Choose With Care: 12 Steps to a Child Safe Organisation”](#)

## Images of Children

Most people taking photos of children at sporting events are doing so for acceptable reasons and are using appropriate methods, for example, a parent videoing their child at a sports presentation or photographing their child on the field during play or a professional photographer taking photos for a club.

The small size of many cameras and the advent of mobile phone cameras make it easier to take photos and harder to monitor. Digital photo publication can now be printed at home and photos can be taken, altered, and transmitted quickly to a vast audience by posting on the internet or 'on sending' the photo to mobile phone users.

This greater ease of taking and modifying images has raised concerns about the potential risks of child abuse posed directly and indirectly to children and young people through the inappropriate use of photographs featured on sports web sites and in publications.

The following information and suggested strategies have been provided for sporting clubs and associations to consider when acquiring and displaying images of children and young people on web sites and in other publications. It is not intended to restrict people taking photos for legitimate reasons.

Please note that this information is not intended to be, nor should it be relied upon as a substitute for legal or other professional advice. Organisations and individuals should seek legal advice in relation to these issues in your state or territory.

## The Law

In Australia, generally speaking, there is no law restricting photography of people (including children) in public spaces as long as the images are not:

- indecent (such as 'up skirt' or 'downblouse' photographs taken covertly in change rooms or toilets)
- being used for voyeurism or made for the purpose of observing and visually recording a person's genital or anal region
- protected by a court order (e.g. child custody or witness protection)
- defamatory
- being for commercial purposes (person's likeness is used to endorse or entice people to buy a product).

Photos of a child (including your own child) also contravene Criminal Codes and censorship laws if the child is photographed in a provocative or sexual manner.


Where a sporting event is held on a club's private property, privately owned land, a school or council owned facilities, the owner of private property or venue is able to restrict, ban or require permission of photography anywhere in their venue (e.g. some council owned facilities will not allow mobile phones or cameras in change rooms or toilets).

Where a sporting event is held on private property not owned by the organisers, it is good practice to determine a mutually agreed photographing policy.

If a person is taking photographs inappropriately (e.g. breaching the restrictions or ban in place for that private property or venue), then venue management can request the person to stop. If the person refuses, the police or security may be called to escort them off the property.

### **Strategies - acquiring Images**

- Clearly outline and publicise what is considered appropriate behaviour in obtaining images and what is considered appropriate image content.
- Do not allow photographers (professional photographers, spectators, fans, coaches or members of the media) unsupervised access to children.
- Ensure the coach informs any athlete and parent(s) if the coach wants to video the athlete as a tool to analyse and improve performance.

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- Obtain the consent of parent /guardian and their agreement to be present before approving photo/video sessions outside the event venue or at the home of a child. Where possible, have the photo taken at the event venue.
  - Provide details of who to contact within the club or organisation if concerns or complaints of inappropriate behaviour in taking images or content are raised. Ensure that the contact person understands the application of relevant legislation and policies.
  - Provide members of the media and professional photographers with an identification pass to be worn for the duration of major/large events.

### **Strategies - displaying images**

- Consider using models or illustrations for promotional / advertising purposes.
- Obtain permission from the child's parent/guardian prior to taking the images of a child or young person. Ensure that all concerned are aware of the way in which the image is to be used and how long the image will be displayed.
- If an image is used avoid naming the child. If this is not possible avoid using both a first name and surname.
- Avoid displaying personal information such as residential address, email address or telephone numbers if images are being posted on websites or distributed in publications.
- Do not display information about hobbies, likes/dislikes, school, etc. as this information has the potential to be used as grooming tools by paedophiles or other persons.
- Only use appropriate images of the child, relevant to the sport or activity, and ensure that the athlete/child is suitably clothed. Images of athletes participating in sports or activities that involve minimal clothing (e.g. swimming and gymnastics) or unusual body positions/poses could potentially be misused.
- Reduce the ability for direct copying of pictures from a website to another source (i.e. disable the 'right mouse click' function).
- Clearly outline in a written contract to photographers who are contracted or paid to take photos, who will retain the images taken, include arrangements made for negatives, digital file and proofs and outline any restrictions for use and sale.
- Provide details of who to contact and what to do if concerns or complaints of inappropriate image use are raised.

Sexual assault, rape, stalking, and indecent exposure are criminal offences in all States and Territories in Australia.

## Criminal Behaviours

**Sexual assault** includes acts of a sexual nature carried out against a person's will (e.g., a woman is forced to have sex after a club function or to maintain her position on the team). Sexual assault is a criminal matter and is dealt with by the police.

Sometimes these behaviours are confused with sexual harassment, which is not a criminal offence. However, serious sexual harassment can include one or more of these behaviours, and as criminal behaviours they should be dealt with by the police.

Most sexual assault is perpetrated by men against women. Violence against women in sport should not be tolerated. Sports - at all levels- needs to shift attitudes and have structures in place that recognise that violence against women and behaviour that harms or degrades women is never acceptable.

**Physical assault** involves the use of physical force with the intent to harm or frighten. Assault is a criminal matter and is dealt with by the police. Sports usually use their tribunal or hearing committees to deal with incidents that involve physical contact between players during an event or game (e.g., a melee or punch up between the players). These processes may also deal with off-field incidents (e.g., a fight in the club rooms), although this will vary from sport to sport. A victim of assault may elect to report it to the police.

## Legal Rights and Responsibilities

People participate in sport and recreation for many different reasons and they should be able to do so knowing that they'll be safe from harassment and abuse and treated fairly with dignity and respect.

Regardless of your role in sport, you have a number of rights and responsibilities.

### **You have the right to:**

- not be subjected to abuse or harassment while competing or at practice, undertaking administrative duties, in the club room and at other club social events;
- not be unfairly discriminated against by decisions made by your club or association (e.g., decisions about membership, selection, access to facilities and equipment);
- complain about inappropriate and unlawful behaviours and for complaints to be taken seriously and acted upon promptly;
- a fair process and not to be victimised if you make a complaint or are complained about.

### **You have the responsibility to contribute to safe and harassment-free sport by:**

- **treating** others with dignity and respect
- **behaving** in a manner that does not put either yourself or others at risk of harm

- **responding** to situations where you see others being treated unfairly, bullied or harassed.

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## Strategies for Clubs and Associations

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**By implementing the strategies listed below, clubs and associations can provide a safer and more enjoyable sporting environment for children.**

- Appoint a child protection (member protection) representative. This person should be the first point of contact if a child, parent or other member of the club or association becomes concerned about an incident.
- Have the child protection (member protection) representative appropriately trained and their details and role well- advertised within the club and association. Education and training information is available from state departments of sport and recreation and the *Play by the Rules* website.
- Adopt or update policies and procedures recommended by your national organisation. If there is not an affiliated peak organisation, the club or association should develop its own policies and procedures. The policy should include a complaints process and codes of behaviour for all roles within the sport, stating what acceptable behaviour is.
- Adopt thorough recruitment and selection practices for paid and voluntary positions. These practices should include job descriptions, interviews, checking references and where appropriate, conducting police checks.
- Promote the policy and procedures to all members, particularly coaches, and make them easily accessible (for example, put them on your website).
- Ensure clubs and associations meet any relevant state child protection legislative requirements.
- State and national organisations need to ensure that teams travelling into states/territories with specific child protection legislation are also aware of the requirements under the legislation. The information and processes for applying for a *Working With Children Check* (if relevant) should be available from the sport's Member Protection Policy.
- Respond to suspected, allegations and complaints of child abuse. Where there is an incident of suspected child abuse, the child protection representative for the club or association should immediately make contact with the national organisation and/or the relevant authorities to seek advice.
- Ensure there is no harassment and victimisation of the child or the person who made the allegation on behalf of the child.

- Use accredited coaches and officials and check that their accreditation is current.
- Provide information to coaches and others working with children about how to recognise child abuse and give them directions on what to do if abuse is reported or suspected.
- Conduct an education and training program to increase awareness of child abuse (various agencies in each state that can assist with this).

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## Strategies for Coaches

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People working with children in sport, particularly coaches, need to be aware that not all children will understand an action or request in the same manner. One child may see an action as usual or acceptable behaviour while another may find it unacceptable. A child's interpretation of an action may also be influenced by cultural and religious differences, gender and prior experiences. It is important therefore to be aware of your communication style.

The following principles or actions may help coaches provide a safe environment.

- Ensure your actions are at all times unambiguously professional. Give a verbal explanation, in front of all athletes (and preferably parents as well) of how, where, when and why you may need to touch athletes.
- Remember that the welfare of the child or children is always of paramount importance.
- Know what policies, complaint processes and codes of behaviour your sport has in place (at state and/or national level) and how this applies to you.
- Understand and have signed onto your sport's code of behaviour (a requirement for coaches accredited under the National Coaching Accreditation Scheme).
- Understand how the child protection legislation in your state may affect you.

Ensure that any physical contact with children is appropriate to the development of the skills required for the sport. (e.g. it would be appropriate to teach a child to float in the water by touching their back, or to hold their arms or feet to demonstrate a movement. However, it wouldn't be appropriate to hold the child suggestively, such as on the breasts or around the groin area, as this is not essential to the development of the skills.)

- Be careful about which part of your body and how much of it is in contact with a child's body.



- Avoid unaccompanied and unobserved activities with children. Try not to separate yourself and a child from the line of sight of other people. If you need to have a private talk to a child about their ability or behaviour, do this in an open place near others. Invite another coach or support person to join the conversation or talk to more than one child at a time.
- Use positive and age-appropriate language when talking to and in the presence of children.
- Before entering change rooms knock or announce that you will be coming in and try to have at least one other adult with you. Do not isolate yourself and a child from others in the change room.
- Introduce a club policy that the second to last child and their parent or guardian will wait with you and the child (this will also enable you to concentrate on making contact with the parent if they are late).
- Avoid the risk of being left alone with a child by having a parent, guardian or support person assist you with the training. Require that person to wait with you until all children have left.
- Do not engage in or let others engage in any of the following:
  - abusive initiation or team bonding activities;
  - forcing children into ‘macho type’ activities;
  - rough, physically hurtful or sexually provocative games; and
  - regular scapegoating, ridiculing, rejecting, isolating or taking the ‘mickey’ out of a child.


The above strategies can also apply to older athletes, as there is still likely to be a disparity between you and your athlete in terms of authority, maturity, status and dependence, even if the athlete has reached the legal age of consent.

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## Strategies for Parents

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Parents often turn to sport as a safe place for children to build character, develop skills, learn valuable lessons and to have fun. While involvement in sport remains a positive experience for most participants, parents are now aware that children can face the risk of being harassed and abused in sport. In addition to clubs, organisations, community groups and government agencies, parents can also play a key role in creating a safe environment for children in sport.

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- When you enrol your child in a sport, ask if the club has a harassment, abuse or member protection policy and procedures in place. If not, suggest implementation within the season.
  - Ask if the club has screening procedures in place. As a minimum, coaches should have job descriptions that define and limit their authority. In higher risk positions, screening should include police records check.
  - Ask if the club's coaches are accredited and have signed a coaches code of behaviour.
  - Get involved and get to know your coach. Maintain open and frank communication. If things occur that disturb you, talk to the coach about them.
  - Speak out when you hear language or attitudes that contribute to a negative or unsafe environment. You may wish to pursue your issues with the club executive.
  - Be careful not to put coaches on pedestals. Tell your children it is okay to say 'no' if the coach is doing something that makes them feel 'creepy'.
  - Make an effort to attend practices and games whenever you can.
  - Be wary of private, closed practices. If they occur on a regular basis, ask the coach for an explanation.
  - Be wary of any increase in the amount of time the coach spends with your children beyond the training session.
  - If you volunteer in sport and are asked to take part in screening, accept this as a positive step to keeping children safe.
  - Make sure you are not part of the problem. Don't sling verbal abuse at referees, coaches or others.
  - Encourage your child to play by the rules.
  - Never ridicule your child for making a mistake or losing.

## Attachments:

### 1. MEMBER PROTECTION DECLARATION

Hawkesbury Basketball Association has a duty of care to all those associated with our organisation and to the individuals and organisations to whom is a part of it. It is a requirement of our Association, that we check the background of each person who works, coaches or has regular unsupervised contact with children and young people under the age of 18 years.

I ..... (name)

of.....(address)

born ...../...../..... sincerely declare:

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

Declared in the State/Territory of ..... on ...../...../.....(date)

Signature .....

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

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

Name:.....

Signature:..... Date: .....



## 2: WORKING WITH CHILDREN CHILD PROTECTION REQUIREMENTS

Working with Children Checks (WWCC) aim to create a child-safe environment and to protect children and young people involved in our sport from physical and sexual harm. They assess the suitability of people to work with children and young people and can involve:

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

WWCC requirements vary across Australia. Detailed information, including the forms required to complete a WWCC, are available from the relevant agencies in each state and territory. Fact Sheets for each state and territory are available on the Play by the Rules website: [www.playbytherules.net](http://www.playbytherules.net)

### **New South Wales**

Office of the Children's Guardian

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

Phone: 02 9286 7276

# COMPLAINTS HANDLING PROCEDURE

## 3. INFORMAL APPROACHES

### **Step 1: Talk with the other person** (if safe, reasonable and appropriate)

If you feel confident and comfortable to do so, you can approach the other person to discuss the issues and try and resolve the problem directly.

### **Step 2: Contact an Association Member Protection Officer**

We encourage you to talk with one of our Association Member Protection Officers if:

- step 1 (above) is not appropriate;
- you are not sure how to handle the problem by yourself;
- you want to talk confidentially with someone and find out what options are available to address your concern; or
- the concern continues after you approached the other person.

The Officer will:

- ask how you would like your concern to be resolved and if you need support
- seek to provide different options for you to address your concern
- act as a support person, if you wish
- refer you to an appropriate person (e.g. a mediator) to help you address your concern, if appropriate
- inform the relevant government authorities and/or police, if required by law to do so
- where possible and appropriate, maintain confidentiality.

### **Step 3: Decide how to address your concern**

After talking with the officer, you may decide:

- there is no problem;
- the problem is minor and you do not wish to take the matter forward;
- to try and resolve the problem yourself, with or without a support person;
- to resolve the problem with the help of someone impartial, such as a mediator; or
- to resolve the matter through a formal process.

## 4. FORMAL APPROACHES

### Step 4: Making a Formal complaint

If it is not possible or appropriate to resolve your complaint through an informal process, you may:

- make a formal complaint in writing to the CEO or President (or their nominee); or
- approach a relevant external agency such as an anti-discrimination commission, for advice.


After receiving a formal complaint, and based on the material you provide, the CEO, President (or their nominee) or Complaints Handler will decide whether:

- he/she is the most appropriate person to receive and handle the complaint;
- the nature and seriousness of the complaint requires a formal resolution procedure;
- to refer the complaint to **mediation**;
- to appoint a person to **investigate** the complaint;
- to refer the complaint to a **tribunal hearing**;
- to refer the matter to the **police** or **other appropriate authority**; and/or
- to implement any interim arrangements that will apply until the complaint process is completed.

In dealing with your formal complaint, the person making the decision(s) will take into account:

- whether he/she has had any personal involvement in the circumstances and if so, whether it is appropriate someone else handle the complaint;
- your wishes, and the wishes of the respondent, regarding how the complaint should be handled;
- the relationship between you and the respondent (e.g. an actual or perceived power imbalance between you and the respondent);
- whether the facts of the complaint are in dispute; and
- the urgency of the complaint, including the possibility that you might face further unacceptable behaviour while the complaint process is underway.

If the CEO or President (or their nominee) or a Complaints Handler is the appropriate person to handle the complaint, he/she will, where appropriate and/or necessary:

- 
- provide the information received from you to the other person(s) involved and ask for a response;
  - decide if there is enough information to determine whether the matter alleged in your complaint did or didn't happen; and/or
  - determine what, if any, further action to take, including referring the matter for investigation or disciplinary action.

#### **Step 5: Investigation of the complaint**

In some cases, an investigation may be required to determine the facts surrounding the complaint. Following the investigation, a written report will be provided to the CEO.

- If the complaint is referred to **mediation**, we will follow the steps outlined in Attachment or as agreed by you, the respondent and the mediator.
- If the complaint is referred to a **tribunal hearing**, the hearing will be conducted according to the steps outlined in Attachment.
- If the complaint is referred to the **police or another external agency**, we will endeavour to provide all reasonable assistance required by the police or the agency.

Any cost incurred by us relating to the complaint process is to be met by the relevant person/organisation, unless otherwise stated.

#### **Step 6: Reconsidering a complaint or appealing a decision**

If the matter is referred to mediation and is not resolved at mediation, you may request that the CEO or President (or their nominee) or Complaints Handler reconsider the complaint in accordance with Step 3.

You or the respondent(s) may also appeal a decision made at a tribunal hearing. The grounds and process for appeals are set out in Attachment.

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

The person handling the complaint will record the complaint, the steps taken to resolve it and the outcome. This information will be stored in a confidential and secure place. If the complaint was dealt with at the state/district level, the information will be stored by the state association.

## Attachment 5: MEDIATION

Mediation is a process that seeks to resolve complaints with the assistance of an impartial person – the mediator. The mediator does not decide who is right or wrong and does not tell either side what they must do. Instead, he or she helps those involved to discuss the issues and seeks to facilitate a mutually agreeable solution.

Our approach to mediation follows the steps set out below.

1. The MPIO/ CEO will appoint an appropriate mediator to help resolve the complaint. This will be done under the direction of Basketball Australia and in consultation with the complainant and the respondent(s). The mediator will be an independent person in the context of the complaint; however this does not preclude a person with an association with Basketball Australia acting as mediator.
2. The mediator will talk with the complainant and respondent(s) about how the mediation will take place and who will participate. At a minimum, the mediator will prepare an agenda of issues to be discussed.
3. All issues raised during mediation will be treated confidentially. We also respect the rights of the complainant and the respondent(s) to pursue an alternative process if the complaint is not resolved.
4. If the complaint is resolved by mediation, where appropriate the mediator may seek to ensure the parties execute a document that sets out the agreement that has been reached. This agreement will be signed by the complainant and the respondent(s). We expect the parties involved to respect and comply with the terms of the agreement.
5. If the complaint is not resolved by mediation, the complainant may:
  - write to the MPIO/ CEO to request that the MPIO/ CEO reconsider the complaint;
  - approach an external agency, such as an anti-discrimination or equal opportunity commission, to resolve the matter.

We recognise that there are some **situations where mediation will not be appropriate**, including:

- when the people involved have completely different versions of the incident;
- when one or both parties are unwilling to attempt mediation;
- when the issues raised are sensitive in nature;
- when there is a real or perceived power imbalance between the people involved;
- matters that involve serious allegations.



## Attachment 6: INVESTIGATION PROCESS

There will be times when a complaint will need to be investigated and evidence gathered. An investigation helps determine the facts relating to the incident, as well as possible findings and, if requested recommendations. Any investigation we conduct will be fair to all people involved and will be undertaken by an unbiased person.

If we decide that a complaint should be investigated, we will follow the steps outlined below.

1. We will provide a written brief to the investigator that sets out the terms of engagement and his or her roles and responsibilities.

2. The investigator may:

- interview the complainant and record the interview in writing
- provide full details of the complaint to the respondent(s) so that they can respond
- interview the respondent(s) to allow them to answer the complaint and record the interview in writing
- obtain statements from witnesses and collect other relevant evidence
- make a finding as to whether the complaint is:
  - o **substantiated** (there is sufficient evidence to support the complaint)
  - o **inconclusive** (there is insufficient evidence either way)
  - o **unsubstantiated** (there is sufficient evidence to show that the complaint is unfounded)
  - o **mischievous, vexatious or knowingly untrue.**
- provide a report to the CEO/tribunal documenting the complaint, the investigation process, the evidence, the finding(s) and, if requested, any recommendations.

3. We will provide a report to the complainant and the respondent(s) documenting the complaint, the investigation process and summarising key points from the investigation.

4. The complainant and the respondent(s) will be entitled to support throughout this process from their chosen support person or adviser (e.g. an MPIO).

## **Attachment 7: TRIBUNAL PROCEDURES**


The following steps will be followed by hearings tribunals established by Basketball Australia to hear formal complaints made under our Member Protection By-Law.

### **Preparing for a Tribunal Hearing**

1. A Tribunal Panel will be established according to the rules set out in our constituent documents, rules and By-Laws, to hear a complaint that has been referred to it.
2. The number of Tribunal Panel members required to be present throughout the hearing will be three and will not include any person who has any actual or perceived conflict of interest, or bias regarding the matter.
3. The Registrar shall provide the Tribunal members with a copy of all the relevant correspondence, reports or information received and sent by Basketball Australia relating to the complaint/allegations.
4. The Tribunal hearing will be held as soon as practicable, but must allow adequate time for the respondent(s) to prepare for the hearing.
5. The Registrar will inform the respondent(s) in writing that a Tribunal Hearing will take place. The notice will outline:
  - That the person has a right to appear at the Tribunal Hearing to defend the complaint/allegation;
  - Details of the complaint and of all allegations, as well as the provision or clause of any policy, rule or regulation that has allegedly been breached;
  - The date, time and venue of the Tribunal Hearing;
  - That verbal and/or written submissions can be presented at the Tribunal Hearing;
  - That witnesses may attend the Tribunal Hearing to support the respondent/s' position;
  - An outline of any possible sanctions that may be imposed if the complaint is found to be true;
  - That legal representation will not be allowed; and
  - If the respondent is a minor, that they should have a parent or guardian present.

A copy of any investigation report findings will be provided to the respondent/s.

The respondent(s) will be allowed to participate in all Basketball Australia activities and events, pending the decision of the Tribunal, including any available appeal process, unless



the Registrar believes it is necessary to exclude the respondent(s) from all or some Basketball Australia activities and events, after considering the nature of the complaint.

6. The Registrar will notify the complainant in writing that a tribunal hearing will take place.

The notice will outline:

- That the person has a right to appear at the tribunal hearing to support their complaint;
- Details of the complaint, including any relevant rules or regulations the respondent is accused of breaching;
- The date, time and venue of the tribunal hearing;
- That verbal and/or written submissions can be presented to the Tribunal;
- That witnesses may attend the Tribunal Hearing to support the complainant's position;
- That legal representation will not be allowed; and
- If the complainant is a minor, that they should have a parent or guardian present.

A copy of any investigation findings will be provided to the complainant/s.

7. If the complainant believes the details of the complaint are incorrect or insufficient, he/she should inform the Registrar as soon as possible so that the respondent/s and the Tribunal Panel members can be properly informed of the complaint.


8. If possible, the Tribunal Panel should include at least one person with knowledge or experience of the relevant laws/rules (e.g. anti-discrimination).

### **Tribunal Hearing Procedure**

9. The following people will be allowed to attend the Tribunal Hearing:

- The Tribunal Panel members;
- The respondent(s);
- The complainant(s);
- Any witnesses called by the respondent(s);
- Any witnesses called by the complainant(s);
- Any parent / guardian or support person required to support the respondent or the complainant.

10. If the respondent(s) is not present at the set hearing time and the Tribunal Chairperson considers that no valid reason has been presented for this absence, the Tribunal Hearing will



continue subject to the Tribunal Chairperson being satisfied that all Tribunal notification requirements have been met.

11. If the Tribunal Chairperson considers that there is a valid reason for the non-attendance of the respondent(s), or the Tribunal Chairperson does not believe the Tribunal notification requirements have been met, and then the Tribunal Hearing will be rescheduled.

12. The Tribunal Chairperson will inform the Registrar of the need to reschedule, and the Registrar will organise for the Tribunal to be reconvened.

13. The Tribunal Chairperson will read out the complaint, ask each respondent if he/she understands the complaint and if he/she agrees or disagrees with the complaint.

14. If the respondent agrees with the complaint, he/she will be asked to provide any evidence or witnesses that should be considered by the Tribunal when determining any sanctions.

15. If the respondent disagrees with the complaint, the complainant will be asked to describe the circumstances that lead to the complaint being made.

- Reference may be made to brief notes.
- The complainant may call witnesses.
- The respondent(s) may question the complainant and witnesses.

16. The respondent(s) will then be asked to respond to the complaint.

- Reference may be made to brief notes.
- The respondent may call witnesses.
- The complainant may ask questions of the respondent and witnesses.

17. The complainant and respondent may be present when evidence is presented to the Tribunal Hearing. Witnesses may be asked to wait outside the hearing until required.

18. The Tribunal may:

- consider any evidence, and in any form, that it deems relevant;
- ask questions of any person giving evidence;
- limit the number of witnesses including limiting witnesses to that person who only provide new evidence;
- require (to the extent it has power to do so) the attendance of any witness it deems relevant; and

- act in an inquisitorial manner in order to establish the truth of the issue/complaint before it.

19. Video evidence, if available, may be presented. Arrangements for the viewing of this evidence must be made entirely by the person/s wishing to offer this type of evidence.

20. If the Tribunal considers that at any time during the Tribunal Hearing there is any unreasonable or intimidating behaviour from anyone, the Chairperson may deny further involvement of the person in the hearing.

21. After all of the evidence has been presented, the Tribunal will make its decision in private. The Tribunal must decide whether the complaint has, on the balance of probabilities, been substantiated.

22. All Tribunal decisions will be by majority vote.

23. The Tribunal Chairperson may announce the decision of the Tribunal at the conclusion of the hearing. Alternatively, he/she may reserve the decision of the Tribunal at the conclusion of the hearing and deliver the decision at a later time.

24. The respondent/s will have the opportunity to make submissions to the Tribunal in relation to any sanctions that may be imposed.

25. Within 48 hours of the Tribunal delivering its decision, the Chairperson will:

- Forward a notice of the Tribunal decision to the Registrar, including details of any sanctions imposed.
- Forward a letter reconfirming the Tribunal's decision to the respondent/s, including any sanction imposed. The letter should also outline the process and grounds for an appeal, if allowed.

26. The Tribunal does not need to provide written reasons for its decision.


### **Appeals Procedure**

27. A complainant(s) or a respondent(s) may lodge an appeal to Basketball Australia in relation to the decision of a Tribunal on one or more of the following bases:

27.1 That a denial of procedural fairness has occurred;

27.2 That the sanction imposed is unjust and/or unreasonable;

27.3 That the decision was not supported by the information/evidence provided at the mediation or to the Tribunal Hearing; and/or



27.4 That new evidence, that was not reasonably available at the time of initial investigation or hearing, is now available and that evidence is likely to have a material bearing upon the decision in the matter.

28. A person wanting to appeal must lodge a letter setting out the basis for their appeal with the CEO within seven days of a decision being made. An appeal fee of \$250 shall be included with the letter of intention to appeal.

29. If the letter of appeal is not received by the CEO within this time, the right of appeal will lapse. If the letter of appeal is received but the appeal fee is not received within this time, the appeal will also lapse.

30. The letter of appeal and the notice of the Tribunal's decision will be forwarded to an Appeals Registrar (who was not the Registrar or a Tribunal Member in relation to the matter) to review and decide whether there are sufficient grounds for the appeal to proceed. The Appeals Registrar may invite any witnesses to the meeting he/she believes are required to make an informed decision.

31. If the appellant has not shown sufficient grounds for appeal in accordance with clause 26, then the appeal will be rejected. The appellant will be notified in writing, including the reasons for the decision.

32. If the appeal is accepted, an Appeal Tribunal with new panel members will be convened to rehear the complaint.

33. The Tribunal Hearing procedure shall be followed for the Appeal Tribunal.

34. The decision of the Appeal Tribunal will be final and binding.

## Attachment 8: PROCEDURE FOR HANDLING ALLEGATIONS OF CHILD ABUSE

**If you believe a child is in immediate danger or a life-threatening situation, contact the Police immediately on 000.**

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

We will treat any allegation of child abuse or neglect promptly, seriously and with a high degree of sensitivity. All people working with Hawkesbury Basketball Association in a paid or unpaid capacity have a duty to report any concerns to the appropriate authorities, following the steps outlined below.

### **Step 1: Receive the allegation**

If a child or young person raises with you an allegation of child abuse or neglect that relates to them or to another child, it is important that you listen, stay calm and be supportive.

#### **Dos and Don'ts**

Make sure you are clear about what the child has told you.

Do not challenge or undermine the child.

Reassure the child that what has occurred is not his or her fault.

Do not seek detailed information, ask leading questions or offer an opinion.

Explain that other people may need to be told in order to stop what is happening.

Do not discuss the details with any person other than those detailed in these procedures.

Promptly and accurately record the discussion in writing.

Do not contact the alleged offender.

### **Step 2: Report the allegation**

- Immediately report any allegation of child abuse or neglect, or any situation involving a child at risk of harm, to the police and/or the relevant child protection agency. You may need to make a report to both.
- Contact the relevant child protection agency or police for advice if there is **any** doubt about whether the allegation should be reported.
- If the allegation involves a person to whom this policy applies, then also report the allegation to the CEO or Complaints Handler of Basketball Australia so that he or she can manage the situation.



### **Step 3: Protect the child and manage the situation**

- The CEO or Complaints Handler will assess the immediate risks to the child and take interim step to ensure the child's safety and the safety of any other children. This may include redeploying the alleged offender to a position where there is no unsupervised contact with children, supervising the alleged offender or removing/suspending him or her until any investigations have been concluded. Legal advice should be sought before any interim steps are made if the person is an employee of Basketball Australia or an affiliate association.
- The CEO or Complaints Handler will consider what services may be most appropriate to support the child and his or her parent/s.
- The CEO or Complaints Handler will consider what support services may be appropriate for the alleged offender.
- The CEO or Complaints Handler will put in place measures to protect the child and the alleged offender from possible victimisation and gossip.

### **Step 4: Take internal action**

- At least three different investigations could be undertaken to examine allegations that are made against a person to whom this By-Law applies, including:
  - a criminal investigation (conducted by the police)
  - a child protection investigation (conducted by the relevant child protection agency)
  - a disciplinary or misconduct inquiry/investigation (conducted by Basketball Australia).
- Basketball Australia will assess the allegations and determine what action should be taken in the circumstances. Depending on the situation, action may include considering whether the alleged offender should return to his or her position, be dismissed, banned or suspended or face other disciplinary action.
- Where required, we will provide the relevant government agency with a report of any disciplinary action we take.





## Acknowledgements

*This policy has been updated using the 'Play by the Rules - making sport inclusive, safe and fair' website and tools.*

*Also, Basketball Australia: Member Protection by-law. 2015.*

## Policy Review

Hawkesbury Basketball Association Child Protection and Intervention Policy and associated behaviour and guidelines documents/policies will be reviewed annually and updated in line with any legislative changes that have impact on the manner in which child protection and intervention issues are to be dealt with.

## Contacts:

New South Wales Police  
Non-urgent police assistance  
Ph: 131 444  
[www.police.nsw.gov.au](http://www.police.nsw.gov.au)  
Department of Community Services  
[www.community.nsw.gov.au](http://www.community.nsw.gov.au)  
Ph: 132 111