



<b>AUSTRALIAN NATIONAL WORKING EQUITATION</b>	<b>Member Protection Policy</b>
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Authority	This Policy in accordance with ANWEL Constitution. It is binding on all Members of ANWEL.
Signature	
Related Policies	Integrity Framework Code of Conduct Social Media Policy Conflicts of Interest Policy Privacy Policy Horse and Livestock Welfare Policy

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## 1. Introduction

Australian National Working Equitation Ltd (ANWEL) has a clear commitment to create a safe, fair and inclusive sporting environment.

ANWEL:

- seeks to prevent all forms of harassment, discrimination and abuse and to promote positive behaviour and values
- will not tolerate inappropriate or unlawful behaviour
- sets out a Code of Conduct with which everyone associated with ANWEL is expected to abide
- will take disciplinary action against individuals if there is a breach of this Policy.

## 2. Application

This Policy applies to persons who are involved with the activities of ANWEL, whether they are in a paid or unpaid/voluntary capacity and include:

- persons appointed or elected to boards, committees and sub-committees of ANWEL
- employees of ANWEL
- members of ANWEL including life members
- members of any State Associations which are affiliated with ANWE
- members of any clubs which are affiliated with ANWEL
- any horse riders who register with ANWEL and pay a rider's levy
- support personnel, including coaches, managers, veterinarians, physiotherapists, psychologists, masseurs, trainers, grooms and others
- referees, judges and other officials
- riders, officials and other personnel participating in events and activities, including camps, training sessions and competitions, held or sanctioned by ANWEL or its affiliated State Associations and Clubs.

Affiliated State Associations and affiliated Clubs are required to establish Member Protection processes which may include the adoption complementary Member Protection policies.

Breach of this Policy may lead to disciplinary action.

This Policy will continue to apply to a person even after he or she has stopped their association or employment with ANWEL, if disciplinary action against that person has begun.

### 3. Responsibility

All ANWEL affiliated State Associations and Clubs will strive to:

- provide a safe environment for everyone involved in working equitation
- take an inclusive approach in its activities
- ensure the safety and wellbeing of their members and children or young people in particular.

Each ANWEL affiliated State Association and Club is to take seriously its obligation to educate and inform all those involved in working equitation of each person's responsibilities to:

- protect each other, and particularly children or young people, from all abuse and child abuse, including grooming
- create and maintain a member and child-safe culture and a culture of inclusion and safety that is understood, endorsed and put into action by all.

ANWEL, affiliated State Associations and Clubs (subject to state or territory legislation) must:

- a. adopt, implement and comply with this Policy (including its attachments)
- b. ensure that the constitution, or other rules and policies include the necessary clauses for this Policy to be enforceable
- c. publish, distribute and promote this Policy and the consequences of breaches
- d. promote and model appropriate standards of behaviour at all times
- e. deal with any breaches, reports or formal complaints made under this Policy in a sensitive, fair, timely and confidential manner
- f. apply this Policy consistently
- g. recognise and enforce any penalty imposed under this Policy
- h. ensure that a copy of this Policy is available or accessible to the persons and associations to whom this Policy applies
- i. use appropriately trained people to receive and manage any report, complaint or allegation
- j. have available in each State a trained Member Protection Information Officer
- k. monitor and review this Policy regularly.

Individuals bound by this Policy must:

- i. make themselves aware of the contents of this Policy

- m. comply with all relevant provisions of the Policy, including any codes of behaviour/conduct and the steps for making a complaint or reporting possible child abuse set out in this Policy
- n. consent to the screening requirements set out in this Policy, and any state/territory Working with Children Checks if the person holds or applies for a role that involves regular unsupervised contact with a child or young person under the age of 18 or where otherwise required by law
- o. place the safety and welfare of children above other considerations;
- p. be accountable for their behaviour
- q. comply with any decisions and/or disciplinary measures imposed under this Policy.

## 4. Child Protection

ANWEL are committed to the safety and well-being of all children and young people who participate in working equitation.

ANWEL, affiliated State Association and Clubs

- a. are committed to the safety and wellbeing of members and all children and young people who access any ANWEL related activities, programs, events or services
- b. are committed to providing children and young people with a positive and nurturing experience
- c. will strive to ensure that children and young people are protected and not exploited, abused or harmed during their involvement with any working equitation activities, programs, events or services
- d. will listen to children and young people and address any concerns that they raise
- e. are committed to communicating honestly and openly with parents and carers about the wellbeing and safety of their children and young people
- f. will promote and distribute information about this Policy to children and young people and parents/carers as part of an introduction to working equitation activities, events, programs and services
- g. aim to be transparent in decision-making with parents and carers as long as doing so does not compromise the safety of children and young people or breach any confidentiality obligations

- h. implement a code of behaviour to promote appropriate conduct between children. These codes will clearly describe professional boundaries, ethical behaviour and unacceptable behaviour. **Refer to ANWEL Code of Conduct**
- i. choose 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.
- j. ensure that Working with Children Checks are conducted for all persons who work with children, where an assessment is required by law. Working with Children Check laws are currently in place in New South Wales, Queensland, Western Australia, Victoria, the Northern Territory, the Australian Capital Territory, Tasmania and South Australia. Detailed information, including the forms required to complete a Working with Children Check, are available from the relevant agencies in each State or Territory. If a criminal history report is obtained as part of the screening process, ANWEL, affiliated State Association and Clubs shall handle this information confidentially and in accordance with the relevant legal requirements.
- k. provide appropriate support, training, supervision for persons engaged with working with children
- l. Report and respond appropriately to suspected abuse and neglect in accordance with state legislation
- m. Further, if any person believes that another person or organisation bound by this Policy is acting inappropriately towards a child, or is in breach of this Policy, he or she may make an internal complaint to their Club and ANWEL State Association.

#### 4.1 Taking images of children

There is a risk that Images of children may be used inappropriately or illegally. ANWEL requires:

- a. that individuals, State Associations and Clubs, wherever possible, obtain permission from a child's parent/guardian before taking an image of a child that is not their own. This includes ensuring the parent/guardian understands how the image will be used

- b. the use of camera phones, videos and cameras to be prohibited inside changing areas, showers and toilets which are used in connection with working equitation activities
- c. when using a photo of a child, the responsible party 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 child's parent/guardian.
- d. information about a child's hobbies, interests, school or the like is not disclosed, as this can be used by paedophiles or other persons to "groom" a child.
- e. images of children that are relevant to working equitation only be used and that they are suitably clothed in a manner that promotes participation in the sport.
- f. that individuals, State Associations and Clubs ensure permission is granted from the parents/guardians of the children before using the images.

## 5. Anti-Discrimination and Harassment

ANWEL 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. ANWEL recognises that people may not be able to enjoy themselves or perform at their best if they are treated unfairly, discriminated against or harassed.

### 5.1 Discrimination

- a. 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.
- b. The personal characteristics protected by anti-discrimination laws include attributes such as race, age, disability and gender. The full list of protected personal characteristics is in the "Definitions" set out in the Dictionary of Terms.
- c. 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.

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

## 5.2 Harassment

- a. 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.
- b. The offensive behaviour does not have to take place a number of times. A single incident can constitute harassment.
- c. 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.

## 5.3 Prohibition against discrimination and harassment

- a. ANWEL prohibit all forms of harassment and discrimination based on the personal characteristics listed in the "Definitions" set out in the Dictionary of Terms. Any person who believes they are being, or have been, harassed or discriminated against by another person or organisation bound by this Policy is encouraged to raise their concerns with their Club and may make a complaint, and in some circumstances, they may also be able to make a complaint to an external organisation.

## 6. Bullying

ANWEL is committed to providing an environment that is free from bullying. Bullying has the potential to result in significant negative consequences for an individual's health and wellbeing, and ANWEL regard bullying in all forms as unacceptable.

Bullying is characterised by repeated, unreasonable behaviour directed at a person, or group of persons, that creates a risk to health and safety. Bullying behaviour is that which a reasonable person in the circumstances would expect to victimise, humiliate, undermine, threaten, degrade, offend or intimidate a person. Bullying behaviour can include actions of an individual or a group.



Whilst generally characterised by repeated behaviours, one-off instances can amount to bullying. The following types of behaviour, where repeated or occurring as part of a pattern of behaviour, would be considered bullying:

- a. verbal abuse including shouting, swearing, teasing, making belittling remarks or persistent unjustified criticism;
- b. excluding or isolating a group or person
- c. spreading malicious rumours; or
- d. psychological harassment such as intimidation.

New technologies and communication tools, such as smart phones and social networking websites, have greatly increased the potential for people to be bullied (cyberbullying) through unwanted and inappropriate comments.

ANWEL, affiliated State Associations and Clubs will not tolerate abusive, discriminatory, intimidating or offensive statements being made online. In some cases, bullying is a punishable criminal offence.

Frustration at or criticism of a judge, referee, teammate, rider, coach, official, volunteer or sporting body should never be communicated on social networking websites. These issues should instead be addressed - in a written or verbal statement or a complaint to the relevant ANWEL Club and affiliated State Association. **Refer to ANWEL Social Media Policy**

If any person believes they are being, or have been, bullied by another person or organisation bound by this Policy, he or she may make a complaint.

Bullying does not include legitimate and reasonable:

- management action
- management processes
- disciplinary action
- allocation of activities in compliance with agreed systems.

## 7. Intimate relationships

ANWEL understands that consensual intimate relationships (including, but not limited to sexual relationships) between coaches or officials and adult ANWEL members/volunteers may take place legally. However, this Policy will help ensure that the expectations of coaches or officials are clear and, to ensure that if an intimate relationship does exist or develop between a coach or official and an adult ANWEL member/volunteer, 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 ANWEL members/volunteers. In particular, they must ensure that they treat all ANWEL members/volunteers in a respectful and fair manner, and that they do not engage in sexual harassment, bullying, favouritism or exploitation.

ANWEL takes the position that consensual intimate relationships between coaches or officials and the adult ANWEL member they coach should be avoided as they can have harmful effects on the person involved, on other members and coaches and on the sports 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 ANWEL member/volunteer.

ANWEL recommends that if a member/volunteer attempts to initiate an intimate relationship with a coach or official, the coach or official should discourage the member/volunteer approach and explain to the member/volunteer why such a relationship is not appropriate.

If a consensual intimate relationship does exist or develop between an adult member/volunteer 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 member/volunteer and/or other members/volunteers.

In assessing the appropriateness of an intimate relationship between a coach or official and an adult member/volunteer, relevant factors include, but are not limited to:

- the relative age and social maturity of the member/volunteer
- any potential vulnerability of the member/volunteer
- any financial and/or emotional dependence of the member/volunteer on the coach or official
- the ability of the coach or official to influence the progress, outcomes or progression of the members performance and/or career
- the extent of power imbalance between the member/volunteer and coach or official
- the likelihood of the relationship having an adverse impact on the member/volunteer and/or other members/volunteers.

It will often be difficult for a coach or official involved in an intimate relationship with an adult member/volunteer to make an objective assessment of its appropriateness and accordingly they are encouraged to seek advice from appropriate people to

ensure that they have not involved themselves in inappropriate or unprofessional conduct.

## 8. Pregnancy

Pregnant women should be treated with respect and any unreasonable barriers to their participation in working equitation should be removed. Any Discrimination or Harassment against pregnant women in ANWEL will not be tolerated.

ANWEL, affiliated State Associations and Clubs will take reasonable care to ensure the safety, health and wellbeing of pregnant women and their unborn children.

Pregnant women are advised that there may be risks involved and are encouraged to obtain medical advice about those risks. Pregnant women should be aware that their own health and wellbeing, and that of their unborn children, are of utmost importance in their decision-making about the extent to which they choose to participate in working equitation activities.

All pregnant women are encouraged to talk with their medical advisers and make themselves aware of the facts about pregnancy and participating in working equitation activities and ensure that they make informed decisions about their participation.

Pregnant women will be required to sign a disclaimer only if all other participants are required to sign one in similar circumstances.

If a pregnant woman feels she has been harassed or discriminated against on the basis of her pregnancy by another person or organisation bound by this Policy, she may make a formal complaint.

## 9. Inclusive Practices

ANWEL, affiliated State Associations and Clubs are committed to providing a safe, fair and inclusive environment where people of all backgrounds can contribute and participate.

### 9.1 People with a disability

ANWEL, affiliated State Associations and Clubs will not discriminate against any person because they have a disability. Where it is necessary, reasonable adjustments will be made (e.g. modifications to equipment and rules) to enable participation.

### 9.2 Sexual and gender identity

All people, regardless of their sexuality or gender identity, are welcome at working equitation. ANWEL, affiliated State Associations and Clubs strive to provide a safe environment for participation and will not tolerate any form of discrimination or harassment because of a person's sexuality or gender identity.

Drug testing procedures and prohibitions may apply to people who identify as transgender. A person receiving treatment involving a Prohibited Substance or Method, as described on the World Anti-Doping Agency's Prohibited List, should apply for a standard Therapeutic Use Exemption.

## 10. Smoke-free environment

ANWEL is committed to providing a safe and healthy environment at all working equitation activities, events and programs.

In general, our Policy is that

- no smoking shall occur at or near working equitation events involving children and young people under the age of 18
- social events shall be smoke-free, with smoking only permitted at designated outdoor smoking areas
- coaches, officials, trainers, volunteers and players will refrain from smoking while they are involved in an official capacity at working equitation activities, events and programs
- no smoking shall occur in or near stables at sporting events.

## 11. Use, possession or supply of alcohol or drugs

ANWEL members must not:

- use, possess or be under the influence of an illegal or illicit drugs
- use or be under the influence of alcohol
- be incapacitated by any other legal drug such as prescription or over-the-counter drugs

ANWEL, affiliated State Association and Club officials shall have the power to prevent any person from taking part in any competition or activity if in his or her opinion, that person is under the influence of alcohol or drugs.

When conducting social events away from working equitation activity (e.g. Christmas functions), ANWEL, affiliated State Association and Club officials are to promote the responsible consumption of alcohol. It is recommended that strict guidelines are implemented regarding the service and consumption of alcohol at such events.

## 12. Complaints procedures

### 12.1 Complaints

ANWEL aims to provide a simple procedure for complaints based on the principles of procedural fairness (natural justice). Any person (a complainant) may report a complaint about a person/s or body (a respondent) bound by this Policy if they have

been discriminated against, harassed, bullied or there has been any other breach of this policy.

A complaint should be reported to an ANWE Member Protection Information Officer, another responsible person and/or the ANWEL Board. The matter may be delegated by the ANWEL Board to the ANWEL Governance Committee.

In all cases, the lowest level at which a matter can be dealt with shall always be preferred (e.g. if the Club can deal with the complaint, then it should; if not, then if the ANWE State Association can deal with the complaint, then it should).

Therefore, if a complaint relates to behaviour or an incident that occurred at:

- Club level or involves people operating at the Club level, then the complaint should be reported or referred to and handled by the relevant Club in the first instance.
- State level or involves people operating at the State level, then the complaint should be reported or referred to and handled by the relevant ANWE State Association in the first instance.

Only matters that relate to or occur at national level and the most serious cases from other levels should be referred to and handled by ANWEL.

A complaint may be dealt with **formally or informally**.

The complainant usually may indicate their preferred option which will be followed unless the Member Protection Information Officer and/or ANWEL Board or other authorised person, considers that the complaint falls outside this Policy and would be better dealt with another way and/or the law requires the complaint/allegation be reported to an appropriate authority.

All complaints will be dealt with promptly, seriously, sensitively and confidentially. **Detailed complaint procedures are outlined in Attachment 1** of this Policy.

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

## 12.2 Improper and vexatious complaints and victimisation

ANWEL aims to ensure its complaints procedure has integrity and is free of unfair repercussions or victimisation. If at any point in the complaint process the Member Protection Information Officer and/or ANWEL Board considers that a complainant has knowingly made an untrue complaint, or the complaint is vexatious or malicious or intended to cause distress to the person complained of, the matter may be referred to the relevant entity for appropriate action which may include disciplinary action against the complainant.

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

### 12.3 Mediation

ANWEL aims to resolve complaints with the minimum of fuss wherever possible. In many cases, complaints can be resolved by agreement between the people involved with no need for disciplinary action.

Mediation allows those involved to be heard and to come up with mutually agreed solutions. The people involved in a formal complaint - the complainant and the respondent - may also seek the assistance of a neutral third person or a mediator. Lawyers are able to negotiate on behalf of the complainant and/or respondent.

Mediation may occur either before or after an investigation of a complaint. If a complainant wishes to resolve the complaint with the assistance of a mediator, the Member Protection Information Officer and/or ANWEL Board or delegated Governance Committee will, in consultation with the complainant, arrange for a neutral third party (mediator) to mediate the complaint. More information on the mediation process is outlined in Attachment 2 of this Policy.

### 12.4 Tribunals

A hearings tribunal may be formed to hear a formal complaint that has been referred by the ANWEL Board or delegated Governance Committee for an alleged breach of the policy.

A respondent may lodge one appeal only to the tribunal in respect of a decision of an original hearing tribunal. The decision of the tribunal on appeal is final and binding on the people involved to the appeal.

Everybody bound by this Policy will recognise and enforce any decision made by a tribunal under this Policy.

### 12.5 Cost of investigations, mediation and tribunals

Any costs incurred by ANWEL relating to the complaint process set out in this policy (e.g. investigation, mediation and/or a tribunal hearing) are to be equally apportioned between the relevant ANWEL Affiliated State and or Club(s); unless otherwise agreed between the parties prior to any investigation, mediation or tribunal hearing taking place.

Individuals who are found to make purposeful vexatious/ false complaints may be responsible for any investigative and or mediation costs.

### 13. Policy breach

It is a breach of this Policy for any person or organisation bound by this Policy to do anything contrary to this Policy, including but not limited to:

- a. breaching the ANWEL Code of Conduct
- b. failing to follow ANWEL policies (including this Policy) and supporting procedures for the protection, safety and well-being of children
- c. discriminating against, harassing or bullying (including cyber-bullying) any person
- d. victimising another person for making or supporting a complaint
- e. engaging in an inappropriate intimate relationship with a person that he or she supervises, or has influence, authority or power over
- f. verbally or physically assaulting another person, intimidating another person or creating a hostile environment within the sport
- g. disclosing to any unauthorised person or organisation any of ANWEL information that is of a private, confidential or privileged nature
- h. making a complaint that they know to be untrue, vexatious, malicious or improper
- i. failing to comply with a penalty imposed after a finding that the individual or organisation has breached this Policy
- j. failing to comply with a direction given to the individual or organisation as part of a disciplinary process.
- k. abusing of any official of ANWEL, its affiliated State Association or its affiliated Clubs or any official or volunteer at any event or competition organised or sanctioned by ANWEL, its affiliated State Association or its affiliated Clubs including abusive or bullying behaviour directed at an official or volunteer or which denigrates or intimidates or attempts to intimidate an official or volunteer.
- l. failing to follow the direction of an official or volunteer referred to above to comply with any part of the ANWEL Member Protection Policy, the ANWEL Official Rulebook or any directive of the Organising Committee of the relevant event or competition.

## 14. Disciplinary Measures

If an individual or body to which this Policy applies breaches this Policy, one or more forms of discipline may be imposed. These may include:

- making a verbal or written apology
- being suspended or deregistered or having a person's appointment terminated
- paying a fine.

Any disciplinary measure imposed under this Policy must:

- observe and be applied consistently with any contractual arrangements or agreements
- conform to the principles of natural justice and be fair and reasonable
- be based on the evidence and information presented and the seriousness of the breach
- be within the powers of the hearing's tribunal and/or the ANWEL Board to impose the disciplinary measure
- be determined in accordance with ANWEL constituent documents, by-laws, this Policy and/or the rules of the sport.

### 14.1 Individuals

Subject to a finding is made by the ANWEL Board or a Tribunal that an individual has breached this Policy (including the Codes of Conduct) one or more of the following forms of discipline may be imposed:

- a direction that the individual makes a verbal and/or written apology;
- a written warning
- a direction that the individual attend counselling to address their behaviour
- a withdrawal of any awards, placings, records, achievements bestowed in any competitions, activities or events held or sanctioned by ANWEL
- a suspension of the individual's membership or participation or engagement in a role or activity
- termination of the individual's membership, appointment or engagement
- in the case of a judge, coach or official, a direction to de-register the accreditation of the judge, coach or official for a period of time or permanently.

### 14.2 Organisations

If a finding is made by the ANWEL Board or a tribunal that ANWEL State affiliate or Club has breached its own or this Policy (including the Codes of Conduct) one or more of the following forms of discipline may be imposed by the hearings tribunal or the ANWEL Board:

- a written warning



- a fine
- a direction that any rights, privileges and benefits provided to that organisation by ANWEL be suspended for a specified period
- a direction that any funding granted or given to it by ANWEL cease from a specified date
- a direction that ANWEL cease to sanction events held by or under the auspices of that organisation
- a recommendation that the ANWEL State affiliate or Club membership be suspended or terminated
- any other form of discipline that the ANWEL considers reasonable and appropriate.

### 14.3 Factors to consider

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

- the nature and seriousness of the breach
- if the person knew, or should have known, that the behaviour was a breach of the policy
- the person's level of contrition
- the effect of the proposed disciplinary measures on the person, including any personal, professional or financial consequences
- if there have been any relevant prior warnings or disciplinary action
- the ability to enforce disciplinary measures if the person is a parent or spectator (even if they are bound by the policy)
- any other mitigating circumstances.

## 15. Dictionary of terms

This Dictionary sets out the meaning of words used in this Policy and its attachments without limiting the ordinary and natural meaning of the words.

State/Territory specific definitions and more detail on some of the words in this dictionary can be sourced from the relevant State/Territory child protection Commissions or equal opportunity and anti-discrimination Commissions.

**Abuse** is a form of harassment and includes physical abuse, emotional abuse, sexual abuse, neglect, and abuse of power. Examples of abusive behaviour include bullying, humiliation, verbal abuse and insults.

**Affiliated Club** means clubs in association with ANWEL or its State Associations.

**Child Children** means a person or persons who is/are under the age of 18 years

**Child abuse** involves conduct which puts children at risk of harm (usually by adults, sometimes by other children) and often by those they know and trust. It can take

many forms including both verbal and physical actions and by people failing to provide them with basic care.

**Complaint** means a complaint made informally or formally.

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

**Discrimination** means treating or proposing to treat a person less favourably because of a particular characteristic in the same or similar circumstances in certain areas of public life (Direct Discrimination), or imposing or intending to impose an unreasonable requirement, condition or practice that is the same for everyone, but which has an unequal or disproportionate effect on individuals or groups with particular characteristics (Indirect Discrimination)

Relevant attributes or characteristics covered by discrimination law in various Australian jurisdictions include:

- Age (except insofar that events or activities are restricted to persons of a specified age)
- Disability (except insofar that events or activities are restricted to persons of a specified disability classification)
- Marital status
- Parental/family/carer responsibility and status
- Physical features
- Political belief/activity
- Pregnancy and breast feeding
- Race
- Religious belief/activity
- Gender identity
- Sex or gender Sexual orientation
- Social origin
- Irrelevant medical record
- Irrelevant criminal record

Some States and Territories include additional characteristics.

**Harassment** is any type of behaviour that the other person does not want and that is offensive, abusive, belittling or threatening. The behaviour is unwelcome and of a type that a reasonable person would recognise as being unwelcome and likely to cause the recipient to feel offended, humiliated or intimidated. Unlawful harassment includes the above but is either sexual or targets a person because of their race,

sex, pregnancy, marital status, sexual orientation or other personal characteristic protected by law.

It does not matter whether the harassment was intended: the focus is on the impact of the behaviour. The basic rule is if someone else finds it harassing then it could be harassment. Harassment may be a single incident but is usually repeated. It may be explicit or implicit, verbal or non-verbal, and includes electronic cyber communication.

Discrimination and harassment are not permitted in employment (including volunteer and unpaid employment);

when providing sporting goods and services including access to sporting facilities; when providing education and accommodation; the selection or otherwise of any person for competition or a team (domestic or international); the entry or otherwise of any player or other person to any competition and the obtaining or retaining membership of clubs and organisations (including the rights and privileges of membership).

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

Requesting, assisting, instructing, inducing or encouraging another person to engage in discrimination or harassment may also be against the law. It is also a breach of discrimination law to victimise a person who is involved in making a complaint of discrimination or harassment.

Public acts of racial hatred which are reasonably likely to offend, insult, humiliate or intimidate are also prohibited. This applies to spectators, participants or any other person who engages in such an act in public.

**Mediator** means a person appointed to mediate complaints made under this Policy. It is preferable that the mediator has relevant skills, qualifications and/or training in mediation. This person must be impartial and neutral.

**Member Association** means State or Territory Associations of ANWEL and Member means a body or person who is a member of any such Member Association or of ANWEL directly.

**Member Protection Information Officer** means a person trained to be the first point of contact for a person reporting a complaint under, or a breach of, this Policy. The Member Protection Information Officer provides impartial and confidential support to the person making the complaint.

**Natural justice** (also referred to as procedural fairness) incorporates the following principles:

- both the Complainant and the Respondent must know the full details of what is being said against them and have the opportunity to respond

- all relevant submissions must be considered. Irrelevant matters should not be taken into account
- no person may judge their own case
- the decision maker/s must be unbiased, fair and just
- the penalties imposed must be fair and not outweigh the matter complained of.

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

**Sexual harassment** means unwanted, unwelcome or uninvited behaviour of a sexual nature, which could reasonably be anticipated to make a person, feel humiliated, intimidated or offended. Sexual harassment can take many different forms and may include unwanted physical contact, verbal comments, jokes, propositions, display of pornographic or offensive material or other behaviour that creates a sexually hostile environment.

Sexual harassment is not behaviour based on mutual attraction, friendship and respect. If the interaction is between consenting adults, it is not sexual harassment.

**Tribunal** means a tribunal (independent, impartial, and suitably qualified Panel) appointed and acting on the direction of ANWEL Board or delegated Governance Committee. The Tribunal procedure will be determined by the ANWEL Board at the appropriate time in consultation with relevant experts.

**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 rights to make a complaint under government legislation (e.g. anti-discrimination) or under this Policy, or for supporting such a person.

**Vilification** involves a person or body doing public acts to incite hatred towards, serious contempt for, or severe ridicule of a person or group of persons having any of the attributes or characteristics within the meaning of discrimination. Public acts that may amount to vilification include any form of communication to the public and any conduct observable by the public.

## 16. ATTACHMENT 1 Complaints Procedure

All complaints will be kept confidential and will not be disclosed to another person without the complainant's consent except if law requires disclosure or if disclosure is necessary to effectively deal with the complaint.

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

If a complainant wishes to remain anonymous, ANWEL may have difficulty assisting in resolving the complaint. Procedural fairness (natural justice) means that ANWEL is required to provide the person/people complained about with full details of the complaint so they have a fair chance to respond.

### 16.1 Advice to complainants' informal approaches

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

In the first instance, you (the Complainant) should try to sort out the problem with the person or people involved (respondent) if you feel able to do so.

#### **Step 2: Contact a Member Protection Information Officer**

We encourage you to talk with our Member Protection Information Officers or designated ANWEL official 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
- the concern continues after you approached the other person.

The names and contact details for our Member Protection Information Officers are available from the [anwelsecretary@gmail.com](mailto:anwelsecretary@gmail.com)

The Member Protection Information Officer or designated official 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 Member Protection Information Officer or designated official 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
- to resolve the matter through a formal process.

## 16.2 Formal approaches

### **Step 4: Making a Formal complaint**

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

make a formal complaint in writing to the ANWEL Board, State Association, Club, or Member Protection Information Officer (whichever is relevant), or approach an applicable external agency, such as an anti-discrimination or equal opportunity commission, for advice and assistance.

After receiving a formal complaint, and based on the material you provide, the ANWEL Board, State Association, Club, or Member Protection Information Officer (whichever is relevant) will decide whether:

- he or she is the most appropriate person(s) to receive and handle the complaint
- the nature and seriousness of the complaint requires a formal resolution procedure
- to refer the complaint to **mediation** (Attachment 2)
- 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 ANWEL Board, State Association, Club, or Member Protection Information Officer (whichever is relevant) will take into account:

- whether he or she has had any personal involvement in the circumstances and if so, whether it is appropriate for someone else should 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
- the urgency of the complaint, including the possibility that you might face further unacceptable behaviour while the complaint process is underway.

If the ANWEL Board, State Association, Club, or Member Protection Information Officer (whichever is relevant) is the appropriate person(s) to handle the complaint, he or 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 did not occur
- determine what, if any, further action to take, including referring the matter for investigation or disciplinary action in accordance with this Policy.

### **Step 5: Investigating the complaint**

In some cases, an investigation may be required to determine the facts surrounding the complaint. ANWEL investigations procedure is outlined in Attachment 3

Following the investigation, a written report will be provided to the ANWEL Board, State Association, Club, or Member Protection Information Officer (whichever is relevant).

- If the complaint is referred to mediation, we will follow the steps outlined in Attachment D2 or as agreed by you, the respondent and the mediator.
- if the complaint is referred to a tribunal hearing, the hearing will be conducted according to the steps outlined in Attachment 4.
- 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.

**PLEASE NOTE:** it is not the role of the investigator to seek to resolve the matter, nor to impose a penalty.

Any determination, finding or recommendation arising out of the investigation will be referred in the first instance to the Member Protection Information Officer or relevant ANWE official for consideration.

### **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 ANWEL Board, State Association, Club, or Member Protection Information Officer (whichever is relevant) reconsider the complaint in accordance with Step 3.

The Complainant(s) or the Respondent(s) may appeal a decision made at a tribunal hearing. The grounds and process for appeals are set out in Attachment 4.

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

The Member Protection Information Officer or ANWE official 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 or Club level, the information will be stored by the State association.

If the matter is of a serious nature, or if it was dealt with at the national level, the information will be stored by ANWEL and a copy stored by the State Association.

### **Improper Complaints and related victimisation**

ANWEL aims to ensure that the Complaints Procedure has integrity and is free of unfair repercussions or victimisation against the person making the complaint. All necessary steps will be taken 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 the Member Protection Information Officer or relevant ANWE official considers that a Complainant has knowingly made an untrue complaint, or the complaint is malicious, vexatious or intended to cause distress to the Respondent, the complaint may be rejected, and the matter may be referred to the ANWEL Governance Committee for review and appropriate action, including possible disciplinary action against the Complainant.

### **Withholding of Information**

Respondent/s are expected to participate in an Investigation or tribunal proceeding in good faith, and as such to ensure complete disclosure regarding the matter under investigation or being heard. If a Respondent is suspected of and found to have lied or deliberately withheld information or documentation requested by an Investigator or



the tribunal, in the interest of natural justice, this action will be referred for substantiation to a separate hearing. If the action is verified as being either a deliberate withholding of information or documentation, or in providing testimony the Respondent has lied, the tribunal may impose a disciplinary measure as permitted under their authority.

### **Approaching external organisations**

If you feel that you have been harassed or discriminated against, you can seek advice from your state or territory anti-discrimination or equal opportunity Commission. There is no obligation to make a formal complaint. However, if the Commission advises you that the issues appear to be within its jurisdiction, you may choose to lodge a formal complaint with the Commission.

The Commission may investigate your complaint. The Commission may also attempt to conciliate the complaint on a confidential basis. If this fails, or if it is not appropriate, the complaint may go to a formal hearing. The tribunal will make a finding and decide what action, if any, will be taken.

If you do lodge a complaint with the Commission, an appropriate person from our organisation (e.g. Member Protection Information Officer or ANWE official) will be available to support you during the process. You may also wish to have a legal representation,

·  
Serious incidents, such as assault or sexual assault, should be reported to the police.

## 17. ATTACHMENT 2 Mediation

Mediation is a process during which people in conflict are helped to communicate with each other to identify the areas of dispute and to make decisions about resolving it. This attachment outlines the general procedure of mediation that will be followed by ANWEL or the relevant State Association or Club

- If mediation is chosen, the Member Protection Information Officers or designated ANWEL official will, under the direction of the ANWEL or the relevant Member Association or Club and in consultation with the complainant and the respondent(s), arrange for a mediator.
- The mediator's role is to assist the complainant and respondent(s) reach an agreement on how to resolve the problem. The mediator, in consultation with the complainant and respondent(s), will choose the procedures to be followed during the mediation. At a minimum, an agenda of issues for discussion will be prepared by the mediator.
- The mediation will be conducted confidentially and without prejudice to the rights of the complainant and the respondent(s) to pursue an alternative process if the complaint is not resolved.
- At the end of a successful mediation the mediator will prepare a document that sets out the agreement reached which will be signed by them as their agreement.
- If the complaint is not resolved by mediation, the complainant may:
  - a. Write to ANWEL Board, State Association, Club, or Member Protection Information Officer (whichever is relevant) to request that the person(s) reconsider the complaint in accordance with Step 3 set out in Attachment 1
  - b. Approach an external agency such as an anti-discrimination Commission.

Mediation will not be recommended if:

- a. The respondent has a completely different version of the events and will not deviate from these
- b. The complainant or Respondent are unwilling to attempt mediation
- c. Due to the nature of the complaint, the relationship between the Complainant and the respondent(s) or any other relevant factors, the complaint is not suitable for mediation
- d. The matter involves proven serious allegations, regardless of the wishes of the Complainant.

## 18. Attachment 3 Investigations Process

If an investigation needs to be conducted to gather more information the following steps will be followed unless otherwise agreed:

ANWEL or the relevant State Association/Club will provide a written brief to the investigator clarifying terms of engagement and roles and responsibilities. The investigator will:

- Interview the complainant and record the interview in writing.
- Convey full details of the complaint to the respondent (s) so that they can respond.
- Interview the respondent to allow them to answer the complaint and record the interview in writing.
- Obtain statements from witnesses and other relevant evidence
- Make a finding as to whether the complaint is:  
**substantiated** (there is sufficient evidence to support the complaint)  
**inconclusive** (there is insufficient evidence either way)  
**unsubstantiated** (there is sufficient evidence to show that the complaint is unfounded)  
**mischievous, vexatious or knowingly untrue.**
- Provide a report to ANWEL or the relevant State Association/Club documenting the complaint, investigation process, evidence, finding and, if requested, recommendations.

ANWEL or the relevant State Association/Club will provide a report to the Complainant and the Respondent(s) documenting the complaint, the investigation process and summarising key points that are substantiated, inconclusive, unsubstantiated and/or mischievous.

The Complainant and the Respondent(s) will be entitled to support throughout this process from their chosen support person/adviser (e.g. Member Protection Information Officer or other person).

The complainant and the respondent(s) may have the right to a hearing by a tribunal in relation to any decision based on the investigation. Information on hearings and tribunal process is determined by ANWEL Board.

## **19. Attachment 4 Tribunal Process**

Any reference to a tribunal under this Policy will be conducted in accordance with Australian legislation, ANWEL Constitution, By-laws and or Rules.

The tribunal procedure will be determined by the ANWEL Board at the appropriate time in consultation with relevant experts.



<p>Nature of complaint (category/basis/grounds)</p> <p>Can tick more than one box</p>	<table border="0"> <tr> <td><input type="checkbox"/> Harassment or</td> <td><input type="checkbox"/> Discrimination</td> </tr> <tr> <td><input type="checkbox"/> Sexual/sexist</td> <td><input type="checkbox"/> Selection dispute</td> </tr> <tr> <td><input type="checkbox"/> Coaching methods</td> <td><input type="checkbox"/> Personality clash</td> </tr> <tr> <td><input type="checkbox"/> Sexuality</td> <td><input type="checkbox"/> Verbal abuse</td> </tr> <tr> <td><input type="checkbox"/> Race</td> <td><input type="checkbox"/> Bullying</td> </tr> <tr> <td><input type="checkbox"/> Physical abuse</td> <td><input type="checkbox"/> Religion</td> </tr> <tr> <td><input type="checkbox"/> Disability</td> <td><input type="checkbox"/> Victimisation</td> </tr> <tr> <td><input type="checkbox"/> Pregnancy</td> <td><input type="checkbox"/> Child Abuse</td> </tr> <tr> <td><input type="checkbox"/> Unfair decision</td> <td></td> </tr> <tr> <td><input type="checkbox"/> Other</td> <td></td> </tr> <tr> <td>.....</td> <td></td> </tr> </table>	<input type="checkbox"/> Harassment or	<input type="checkbox"/> Discrimination	<input type="checkbox"/> Sexual/sexist	<input type="checkbox"/> Selection dispute	<input type="checkbox"/> Coaching methods	<input type="checkbox"/> Personality clash	<input type="checkbox"/> Sexuality	<input type="checkbox"/> Verbal abuse	<input type="checkbox"/> Race	<input type="checkbox"/> Bullying	<input type="checkbox"/> Physical abuse	<input type="checkbox"/> Religion	<input type="checkbox"/> Disability	<input type="checkbox"/> Victimisation	<input type="checkbox"/> Pregnancy	<input type="checkbox"/> Child Abuse	<input type="checkbox"/> Unfair decision		<input type="checkbox"/> Other		.....	
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<p>What they want to happen to fix issue</p>																							
<p>Information provided to them</p>																							
<p>Resolution and/or action taken</p>																							

Follow-up action	
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Follow-up action	
Methods (if any) of attempted informal resolution:	
Formal resolution procedures followed (outline):	
If investigated: Finding:	
If went to hearing tribunal: Decision:	
Action recommended - If mediated:  Date of mediation:	

<p>Were both parties present- Terms of Agreement:</p> <p>Any other action taken?</p>	
<p>If went to tribunal: Decision</p> <p>Action recommended</p>	
<p>Resolution</p>	<ul style="list-style-type: none"> <li>• Resolution &lt; 3 months to resolve</li> <li>• Between 3 – 8 months to resolve</li> <li>• &gt; 8 months to resolve</li> </ul>
<p>Completed by</p>	<p>Name:</p> <p>Position:</p> <p>Signature: _____ Date: / /</p>
<p>Signed by:</p>	<p><b>Complainant:</b></p> <p>Name:</p> <p>Signature: _____ Date: / /</p> <p><b>Respondent:</b></p> <p>Name:</p> <p>Signature: _____ Date: / /</p>