

## ATTACHMENT A

### STRUCTURE, POLICIES AND IMPLEMENTATION

#### 1. An outline of how the sport of swimming is structured in Australia

##### a) Role and Functions of SAL

Swimming Australia Limited (“SAL”) is a company limited by guarantee and is incorporated pursuant to the *Corporations Act 2001 (Cth)*. SAL is the national peak organisation in Australia for aquatics and is the recognised member of the Federation Internationale de Natation (“FINA”) which in-turn is the recognised peak body for aquatics internationally.

Swimming in Australia, like many similar sports, operates as a federated structure with SAL at the head and the State and Territories being the Member Associations of SAL with voting rights which are exercised at General Meetings of SAL. The only exception to this is in the case of Swimming ACT which is a member within Swimming NSW.

**SAL’s structure is somewhat more complicated as the national sports of Diving, Water Polo, Synchronised Swimming and Masters Swimming are Affiliate Members and receive international recognition through SAL to FINA. The activities of SAL are restricted to those activities which are permitted in SAL’s pursuit of the Objects as set out in the company constitution (refer Annexure A).**

As set out in the constitution, SAL operates predominantly for the promotion and development of swimming in Australia in accordance with the Objects. The Objects of Swimming Australia as set out in the constitution are to:

- (a) Affiliate and otherwise liaise with FINA as the recognised international aquatics authority and such other bodies as may be desirable to achieve these objects;
- (b) Conduct, encourage, promote, advance, control and administer national activities in and throughout Australia;
- (c) Provide for the conduct, encouragement, promotion, advancement, and administration of national activities in and throughout Australia for athletes with a disability;
- (d) Provide for the conduct, encouragement, promotion, advancement, and administration of educational activities in and throughout Australia for technical officials, coaches, athletes and learn-to-swim programs;
- (e) Provide for the conduct, encouragement, promotion and administration of national activities through and by various Member Associations and Affiliates for the mutual and collective benefit of the Members;
- (f) Act in good faith and loyalty to ensure the maintenance and enhancement of SAL and Swimming, its standards, quality and reputation for the collective and mutual benefit of the members and swimming;
- (g) At all times operate and promote mutual trust and confidence between SAL and the Members in pursuit of these Objects;
- (h) At all times to act on behalf of, in the interests of, and in conjunction with, the Members;
- (i) Promote the economic and sporting success, strength and stability of SAL and each Member Association and to act interdependently with each Member Association in pursuit of these Objects;
- (j) Ensure compliance with the rules and regulations of FINA as amended from time to time;

- (k) Make Australia the leader in world swimming;
- (l) Apply the property and capacity of SAL towards fulfilment and achievement of these Objects;
- (m) Use and protect the Intellectual Property;
- (n) Collect, distribute and publish information in connection with swimming;
- (o) Promote and control national and international meetings, competitions and championships;
- (p) Strive for governmental, commercial and public recognition of SAL, the Member Associations and swimming;
- (q) Promulgate and secure uniformity in such rules as may be necessary or appropriate for the management and control of swimming and related activities in Australia;
- (r) Promote swimming as a spectator sport;
- (s) through or in association with the Member Associations, the Affiliates or the entities or of itself, promote the health and safety of all Individual Members;
- (t) pursue through itself or others such commercial arrangements, including sponsorship and marketing opportunities as are appropriate, to further these Objects;
- (u) formulate or adopt and implement appropriate policies, including in relation to sexual harassment, equal opportunity, equity, drugs in sport, health, safety, junior and senior programs and such other matters as arise from time to time as issues to be addressed in swimming;
- (v) represent the interests of its Members and of swimming generally in any appropriate forum;
- (w) have regard to the public interest in its operations;
- (x) do all that is reasonably necessary to enable these Objects to be achieved and to enable the Members to receive the benefits which these Objects are intended to achieve;
- (y) encourage and promote performance-enhancing drug free competition;
- (z) undertake and or do all things or activities which are necessary, incidental or conducive to advance these Objects.

SAL is established solely for the Objects.

SAL is responsible for the advancement of swimming as a sport within Australia including responsibility from junior swimming through to elite swimming. At this point in time the community and pathway activity is primarily via affiliated swimming clubs, who support swimmers through squad based training or by running national programs at their club. The role of the community swimming unit extends to supporting coaches and technical officials who service the sport.

**SAL's high performance unit, through its membership of FINA, is responsible for junior, senior and Paralympic Australian teams which compete at Olympic, Commonwealth, World Championships and other international events. In addition to this, SAL hosts a number of international and national events within Australia.**

**SAL's leadership role** includes the development of Australian swimming policies for implementation by its Member Associations. This includes the Member Welfare Policy and the Child Welfare Policy (**Annexure B**).

## **b) Relationship between SAL and State and Territory swimming institutions**

As set out in the constitution the Members shall consist of:

- (a) **The Member Associations, which subject to SAL's Constitution, shall be represented by their delegates who have the right to be present, debate and vote at General Meetings for and on behalf of the Member Association;**
- (b) The Affiliates, which are entitled to be represented at General Meetings, but have no right to debate or vote at General Meetings;
- (c) Clubs which have no right to attend, debate or vote at General Meetings;
- (d) Individual Members who may attend General Meetings but otherwise have no right to debate or vote at General Meetings (unless also a delegate or a Director);
- (e) Life Members, who may attend and debate at General Meetings, but otherwise have no right to vote at General Meetings; and
- (f) Such new categories of Members, as may be created in accordance with Rule 14.2 of **SAL's Constitution**.

See Swimming Australia National Structure diagram at **Annexure C**.

The following entities are recognised by SAL as Member Associations. Each of them administers swimming in their particular State or Territory including any regional area as agreed by the Board from time to time and administers their particular discipline in accordance with the Objects.

The Member Associations are:

- (a) **Swimming NSW Limited ("Swimming NSW");**
- (b) **Swimming Victoria Inc ("Swimming Victoria");**
- (c) **Queensland Swimming Association Inc ("Swimming Queensland");**
- (d) **Western Australian Swimming Association Inc ("Swimming WA");**
- (e) **Swimming SA Inc ("Swimming SA");**
- (f) **Tasmanian Swimming Inc ("Swimming Tasmania");**
- (g) **Swimming Northern Territory Inc ("Swimming Northern Territory");**
- (h) **Australian Swimming Coaches and Teachers Association Ltd ("ASCTA");** and
- (i) **Australian Swimmers Association Inc ("ASA").**

Swimming ACT Inc. is a district within Swimming NSW and is the peak body for competitive swimming in the Australia Capital Territory;

The following entities are recognised by SAL as Affiliate Members:

- (a) **Water Polo Australia Limited ("Water Polo Australia");**
- (b) **Diving Australia Inc ("Diving Australia");**
- (c) Synchronised Swimming Australia Inc; and
- (d) **Masters Swimming Australia Inc ("Masters Swimming Australia").**

Each of the State and Territory entities operate independently of SAL however as Member Associations each is bound by the policies of SAL not limited to but including the Child Welfare Policy and the associated General Information and Procedures (**Annexure D**).

**In accordance with SAL's constitution each Member shall:**

- (a) Be incorporated;
- (b) Provide SAL with copies of its audited accounts, annual report and other associated documents immediately following its annual general meeting;

- (c) Adopt the Objects and adopt rules which reflect and which are, to the extent permitted or required by the State Acts, generally **in conformity with SAL's Constitution**;
- (d) Apply its property and capacity solely in pursuit of the Objects, the Member Association and swimming;
- (e) At all times act for the joint advantage of SAL and the Members and swimming;
- (f) Do all that is reasonably necessary to enable the Objects to be achieved;
- (g) Act in good faith and loyalty to maintain and enhance SAL and swimming, its standards, quality and reputation for the collective and mutual benefit of the Members and swimming;
- (h) At all times operate with and promote mutual trust and confidence between SAL and the Members in pursuit of the Objects; and
- (i) At all times act on behalf of and in the interests of the Members and swimming.

Each of the State and Territory entities, as a requirement of the SAL constitution, agree:

- (a) **That they are bound by SAL's constitution and that SAL's constitution operates to create** uniformity in the way in which the Objects and the sport of swimming are to be conducted, encouraged, promoted and administered in Australia;
- (b) To act in good faith and loyalty to each other to ensure the maintenance and enhancement of swimming, its standards, quality and reputation for the collective and mutual benefit of the Members;
- (c) Not to do or permit to be done any act or thing which might adversely affect or derogate from the standards, quality and reputation of swimming and its maintenance and enhancement;
- (d) To make full and proper disclosure to each other of all matters of importance to SAL and swimming;
- (e) To ensure that no Member acquires a material or financial advantage at the expense of SAL or any Member Association or swimming;
- (f) To operate with mutual trust and confidence in pursuit of the Objects;
- (g) To promote the economic and sporting success, strength and stability of each other and act interdependently with each other in pursuit of the Objects;
- (h) To act for and on behalf of the interests of swimming, SAL and the Members;
- (i) That should a member Association or an Affiliate have administrative, operational or financial difficulties, the Board of SAL may, in its absolute discretion, act to assist that member Association in whatever manner and on such conditions as it considers appropriate.

It is a requirement of membership that the constituent documents for each Member Association clearly reflect the Objects with such incidental variations as are necessary or appropriate, having regard to the State Act applicable to each Member Association.

The effect of membership of SAL is set out at clause 17 and states:

Members acknowledge and agree that:

- (a) this Constitution constitutes a contract between each of them and SAL and that they are bound by this Constitution and the By-Laws;
- (b) they shall comply with and observe this Constitution and the By-Laws and any determination, resolution or policy which may be made or passed by the Board or any duly authorised committee;
- (c) by submitting to this Constitution and the By-Laws they are subject to the jurisdiction of SAL;

- (d) this Constitution is made in pursuit of a common object, namely the mutual and collective benefit of SAL, the Members and swimming;
- (e) this Constitution and the By-Laws are necessary and reasonable for promoting the Objects and particularly the advancement and protection of swimming; and
- (f) they are entitled to all benefits, advantages, privileges and services of SAL membership.

**c) Relationship between SAL and local swimming clubs (Hedland, Scone, Port Macquarie)**

SAL is the 'peak body' for swimming in Australia. Swimming Clubs are generally affiliated to the respective State or Territory associations either directly or through regions or districts which in-turn are members of the State or Territory entity. In relation to the specific Clubs mentioned, the relevant affiliation is set out below.

- Hedland Amateur Swimming Club- Swimming Queensland
- Scone Swimming Club- Swimming NSW
- Port Macquarie Swimming Club- Swimming NSW

The various clubs operate independently within their respective geographic areas; however they must comply with the policies and rules of their respective State or Territory entity and in-turn SAL.

I note that pursuant to the SAL Constitution (ref clause 1.1) that Club is defined as 'organisations affiliated to Affiliates or Member Associations'.

I also note that Clubs have no right to attend debate or vote at General Meetings of SAL pursuant to clause 14.1(c) of SAL's constitution.

**d) Relationship between SAL and the Aus Swimming Coaches and Teachers Association (ASCTA)**

The ASCTA are a Member Association, Affiliate and Partner of SAL. ASCTA is the peak body for swimming coaches and teachers in Australia and has priorities that include a safer safety industry in the sport of Swimming. ASCTA applies SAL's Member Welfare, Child Welfare and other relevant Policies and their Code of Conduct as a consequence of its membership of SAL. Individual coaches are also bound by SAL's policies, and By-Laws and the relevant Code of Conduct (this document is at **Annexure E**).

## **2. Detail of policies and procedures of SAL from 1970 to present day**

### **a) Child Protection**

SAL's Child Welfare Policy is implemented to allow a safe environment for all members. SAL is committed to the following principles, the 'Child's welfare is the first and foremost consideration, and all children have the right to be protected from abuse' (reference the preface to the Child Welfare Policy).

SAL's original Child Welfare Policy (the Member Protection Policy) was implemented in October 2002, see **Annexure F**. Since then there have been amendments to enhance the policy. Please see Child Welfare Policy (**Annexure B**) for detail.

Underpinning the Policy is a number of Codes of Conduct (**Annexure E**) as follows:

- General Codes of Conduct;
- Competitor Codes of Conduct;
- Coach Codes of Conduct;
- Team Official Codes of Conduct;
- Team Manager Codes of Conduct;
- Parent/Guardian Codes of Conduct;
- Technical Official Codes of Conduct;
- Administrator Codes of Conduct;
- Spectator Codes of Conduct; and
- Training Program Deliverer Codes of Conduct.

SAL management can be confident that the Member Welfare and Child Welfare policies were in place and updated at regular intervals (since 2002) as this is a requirement of our funding agreement with the Australian Sports Commission (ASC) and this is also a requirement for all funded National Sporting Organisations.

While there was no specific policy relating to Children which pre-dated the introduction of the Member Protection Policy in 2002, SAL and the Member Associations had the normal disciplinary processes, which were included in the respective constitutions, available to them. In general, these provisions operated to enable an organisation to bring disciplinary **proceedings against a member where for example that member "brought the organisation in to disrepute"**. A matter concerning child abuse would most certainly come within this power and have enabled Member Associations and Clubs to have utilised these provisions to initiate disciplinary proceedings against a Member who was the subject of a complaint by a child.

As there was no Member Protection Policy prior to 2002, there was likewise no structured requirement for the Members to advise SAL of any member welfare complaints, disciplinary hearings or adverse findings against Members.

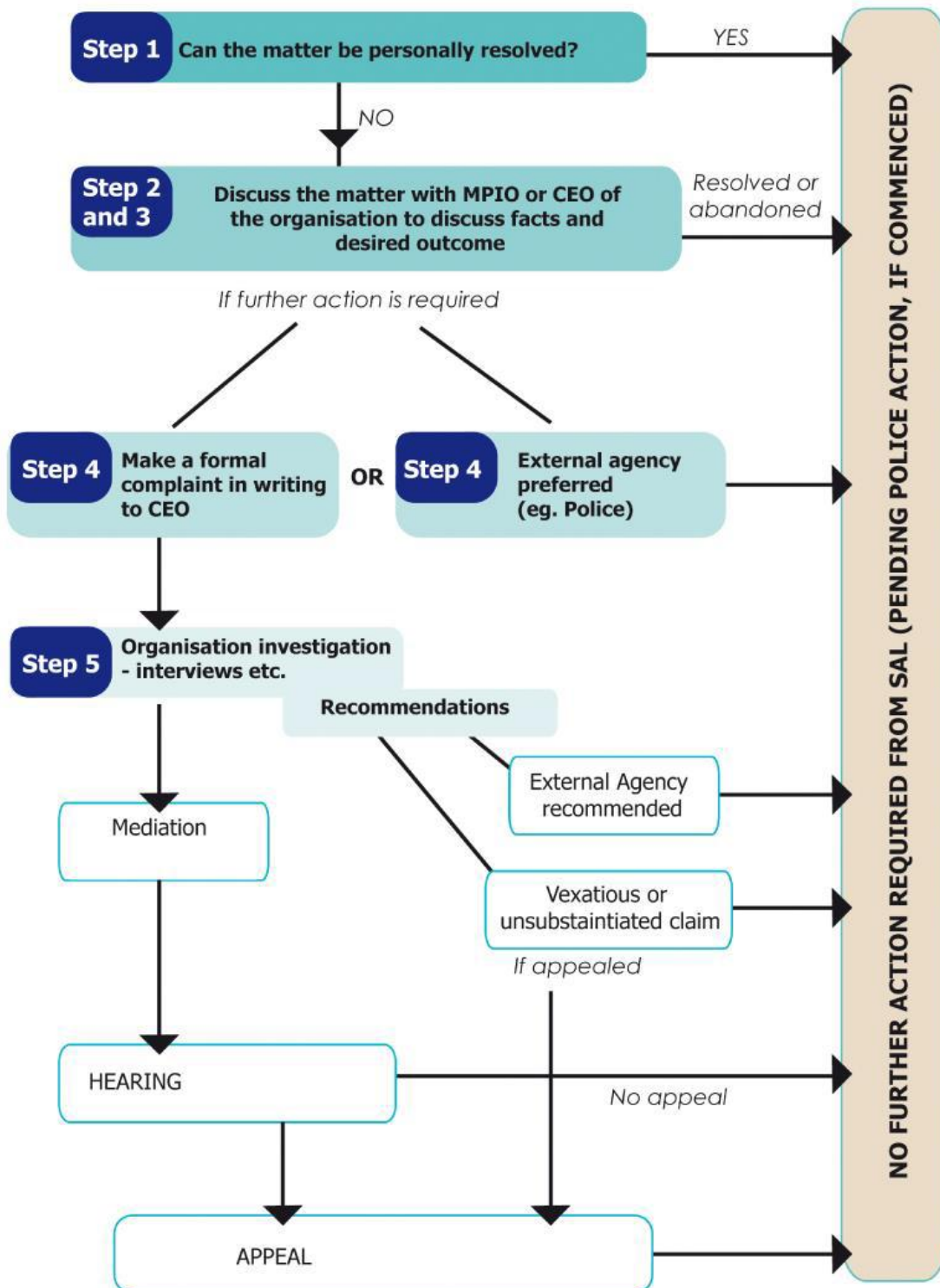
### **b) The handling of complaints of child sexual abuse**

Handling of all complaints are dealt with in accordance with Child Welfare General Information and Procedures to the Child Welfare Policy which sets out in detail the procedures to be adopted in regard to the complaints procedure to be followed where a complaint is received by an organisation, be it a Club, Region, State or Territory Association or SAL. Please see Child Welfare Policy General Information and Procedure and Item 1, Complaint Handling Procedures (**Annexure D**).

A Flow Chart detailing the process is set out below:

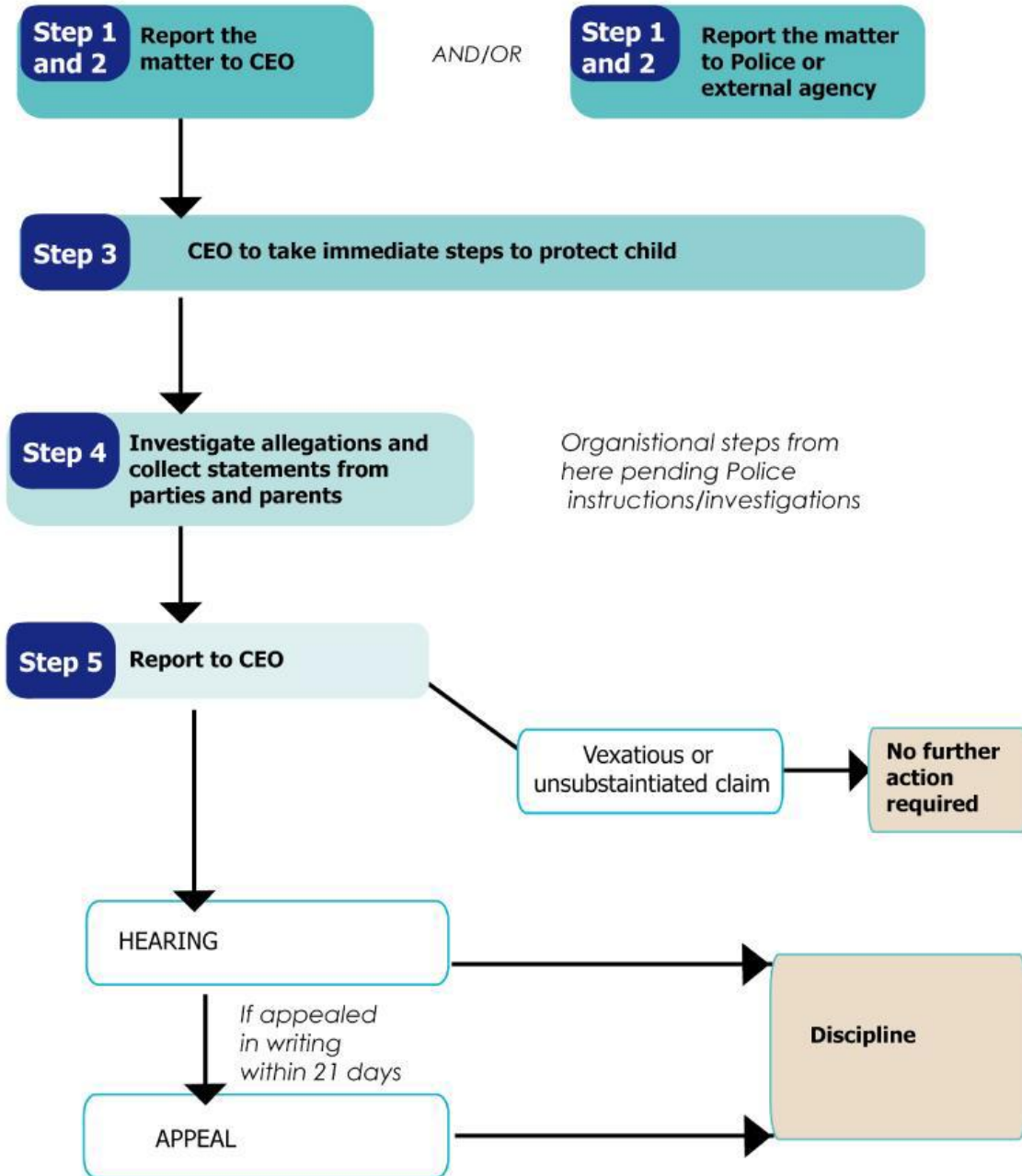
**CHILD WELFARE POLICY PROCESS FLOW CHART**

Potential breach of Policy *not* involving Child Abuse



**Child Welfare Policy – Child Abuse**

Potential breach of Policy involving Child Abuse, reported to MPIO or CEO





### c) Support of Complainants and victims of child sexual abuse

The SAL Child Welfare Policy- General Information and Procedure document (**Annexure D**) sets out SAL's policy with respect to the support of complainants and victims of child sexual abuse, please see Item 1.4 Investigation Procedure for Allegations of Child Abuse. In particular the Procedure document at Steps 1 and 3 indicates specifically that the child's safety is paramount and the steps required ensuring the safety of the child. In part, Steps 1 and 3 state:

#### Step 1 – Receive the allegation and clarify basic details

- Any complaints, concerns or allegations of Child Abuse should be made or referred to the CEO of the Involved Organisation.
- The initial response of the person that receives the Complaint from the Child (or person on behalf of the Child) is crucial to the well-being of the Child. It is very important for the person receiving the information to follow these guidelines:

<b>Do</b>	<b>Don't</b>
Listen and be supportive.	Do not challenge or undermine the child
Make sure you are clear about what the child has told you	Do not seek detailed information, ask leading questions or offer an opinion.
Remain calm	Do not express shock, panic or disbelief
Reassure the child that what has occurred is not his or her fault	Do not discuss the details with any person other than those detailed in these procedures.
Explain that other people may need to be told in order to stop what is happening.	Do not contact the alleged offender
Promptly and accurately record the discussion in writing.	
Ensure the child is safe	

#### Step 3 – Protect the child

- The CEO of the Involved Organisation should assess the risks and take interim action **to ensure the Child's safety and the safety of other Children. Some options** could include redeployment of the alleged offender to a position where there is no unsupervised contact with children or removal or suspension from his or her duties until any investigations have been conducted..
- Legal advice should be sought before any interim steps are made if the person is in paid employment with the Involved Organisation.
- The CEO of the Involved Organisation will consider what services may be most appropriate to support the child and his or her parent/s.

### d) Education qualification or training of persons who engage with complainants and victims of child sexual abuse

The Child Welfare Policy - General Information and Procedure outlines procedures for people that engage with complainants and victims of child sexual abuse. The Policy includes

an option for victims to choose their own support person or advisor and has a step by step guide for people who make the first contact.

Member Protection Information Officer (MPIO), as defined by the Child Welfare Policy, means a person appointed as the first point of contact for a person reporting a Complaint under, or a breach of, this Policy. The MPIO provides confidential information and moral support to the person with the concern or who is alleging a breach of this Policy (“complainant”).

A list of MPIO’s will be available through the Complainant’s Club, Region, State or Territory Association or SAL. SAL currently has at least six staff that are formally trained as an MPIO. Free training for MPIO’s is available through the State and Territory Departments of Sport and Recreation and which utilise a combination of an online training course (provided by Play By The Rules) and a face to face workshop.

Refer to <http://www.playbytherules.net.au/mpio> for further information.

Once MPIOs have completed the training they are entered on a national registration database maintained by the Australian Sports Commission (ASC). SAL can at any time request a list of all MPIO’s attached to swimming Club, Region, State or Territory Association or SAL from the ASC database.

SAL also provides periodic reminders/education to staff who are not MPIOs so they understand the importance of the Child Welfare Policy and their responsibilities under it. Similarly, the Community Sport Unit conducts twice yearly workshops with key Development Officers in the State and Territory Associations. This forum is generally used to communicate to State and Territory development officers the changes to national policies that they should be aware of.

#### **e) Dealing with people against whom complaints of child sexual abuse are made**

The Child Welfare Policy- General Information and Procedures (**Annexure D**) outlines procedures for those people that do or may engage with respondents (the person against who an allegation is made). It outlines that respondents are entitled to their own support person or advisor and has a step by step guide for people who deal with the respondent. Please see step 4 of the General Information and Procedures for full details.

Specifically at **Step 3** the Guideline in part states under the heading:

#### **Step 3 – Protect the child**

- The CEO of the Involved Organisation should also address the support needs of the alleged offender. Supervision of the person should ideally occur with the knowledge of the person. If stood down, it should be made clear to all parties that are aware of the incident that this does not mean the person is guilty and a proper investigation still needs to be undertaken.

### **3. Policies and Procedures**

- Child Welfare Policy (**Annexure B**);
- Child Welfare Policy General Information and Procedures (**Annexure D**)
- The Various Codes of Conduct (formerly part of the Behavioural Guidelines) (**Annexure E**)

## 4. Adoption and Implementation of SAL Policies

### a) Outline the history of the formulation and adoption of such policies and procedures

SAL first implemented a child welfare policy in October 2002 (**Annexure F**) as there was heightened awareness in society regarding the occurrence of Child Abuse and the need to protect children. This awareness both in society generally and subsequently sport coincided with the implementation of Child Abuse Policies as a precondition of on-going Commonwealth Government support for sport and was a stated requirement for funding from the Australian Sports Commission. The details of amendments are below with the latest version 1.4 being approved by the Board of SAL in January 2014:

<b>Policy Version</b>	<b>Date endorsed</b>	<b>Content reviewed/purpose</b>
Original version 0.0	October 2002	<ul style="list-style-type: none"> <li>• Original version</li> <li>• Required by the ASC in line with template version 1</li> </ul>
Version 1.1	November 2006	<ul style="list-style-type: none"> <li>• Required by the ASC in line with template version 4</li> <li>• Split into two policies, Member Welfare and Child Welfare</li> <li>• General procedures and information split out of the policy and into a separate procedure document for member welfare and Child Welfare</li> </ul>
Version 1.3	October 2012	<ul style="list-style-type: none"> <li>• Required by the ASC in line with template version 6</li> <li>• Inclusion of position statements and policies</li> <li>• Minor formatting and word changes throughout</li> </ul>
Version 1.4	January 2014	<ul style="list-style-type: none"> <li>• Required by the ASC in line with template version 7</li> <li>• Review of language throughout to aid understanding</li> <li>• Codes of conduct made a standalone document (taken out of general information and procedures)</li> <li>• Clarification of section 4 – split responsibilities of an organisation vs an individual</li> <li>• Added section 7 – to raise profile of improper complaints or victimisation</li> <li>• Added definitions of sexual harassment, sexual offence and transgender</li> <li>• Added gender identity position statement</li> <li>• Added Child Protection and taking images of children position statements.</li> <li>• Clarified other policies and position statements.</li> </ul>

Underpinning the **Child Welfare Policy and SAL's Policies generally** are various Codes of Conduct, which are listed at Response 2 above.

The key change to the policy was in November 2006 when the Member Protection Policy was split into two separate Policies, being a Member Welfare Policy and a Child Welfare Policy. The Child Welfare Policy is at **Annexure F**. Current SAL management has been informed that the rationale for this was to highlight the importance of looking after the welfare of children over and above all the other general member welfare complaints. It made clear the additional processes and care that was required when dealing with complaints regarding children.

As stated above, as there were no specific Child Welfare Policies adopted by SAL prior to October 2002, SAL and the Member Associations relied on the general disciplinary or by-law provisions in the **SAL or State/Territory's to deal with allegations against members**.

**b) State whether these policies and procedures have been adopted by and apply to State and Territory swimming institutions**

The policies and procedures have been adopted by and do apply to the State and Territory **swimming institutions. I specifically refer to clause 17 of SAL's Constitution which states:**

Members acknowledge and agree that:

- (g) this Constitution constitutes a contract between each of them and SAL and that they are bound by this Constitution and the By-Laws;
- (h) they shall comply with and observe this Constitution and the By-Laws and any determination, resolution or policy which may be made or passed by the Board or any duly authorised committee;
- (i) by submitting to this Constitution and the By-Laws they are subject to the jurisdiction of SAL;
- (j) this Constitution is made in pursuit of a common object, namely the mutual and collective benefit of SAL, the Members and swimming;
- (k) this Constitution and the By-Laws are necessary and reasonable for promoting the Objects and particularly the advancement and protection of swimming; and
- (l) **they are entitled to all benefits, advantages, privileges and services of SAL membership."**

In short, Member Associations and Affiliates, Individual Members and Life Members are **bound by SAL's Policies, including but not limited to the Child Welfare Policy**.

**c) State whether these policies and procedures have been adopted by and apply to local swimming clubs**

As a consequence of Clubs Membership of their respective State/Territory bodies they were also bound by and applied SAL policies and procedures.

Please refer to the Child Welfare Policy Process Flow chart and the Child Welfare Policy-Child Abuse Flow Chart **attached in Annexure B and as set out at Response 2b above** (Refer Child Welfare Policy General Information and Procedures).

**d) If so explain how the policies and procedures are applied to or adopted by State and Territory swimming institutions**

State and Territory Members are compelled to comply with the relevant policies and procedures as so far as their State or Territory law allows and as a direct consequence of their membership of SAL. This is a requirement set out in SALs Constitution at Clause 17 (referred to and set out in detail above).

The Policies generally set out the responsible entity at the entry point of the matter. This may include a specified officer of a Club or State Member Association (i.e. Member Protection **Information Officer “MPIO”**). The policy flow chart illustrates the affiliation and the steps from the entry point to completion.

While State and Territory Associations must adopt the national policies, they are encouraged by SAL to take ownership of their policy and its implementation in their respective jurisdictions.

**e) If so explain how the policies and procedures are monitored and enforced by SAL, at the national state and local level**

Information is readily available on the SAL website and communication of the policy to staff and members occurs via other mechanisms (such as newsletter) both internally and externally.

When registering as a member (to **SAL’s membership** database) they must accept terms and conditions to ensure they are aware of the code of conduct and what is expected of them and how complaints will be dealt with. Below is an example for New South Wales.

*“I agree to abide by the rules regulations and policies of Swimming Australia, Swimming NSW, the relevant Area Association and the relevant Club including Swimming Australia’s Anti-doping, Member Welfare, Child Welfare and Privacy policies (these are available at [www.swimming.org.au/policies-and-procedures.html](http://www.swimming.org.au/policies-and-procedures.html).”*

SAL responds to any issues that are raised immediately on the discovery or escalation of any issue. When such a situation arises, SAL provides support to MPIOs at Club, Region and State/Territory level on a practical basis to ensure MPIOs understand and correctly implement the Policy. This is particularly important where MPIOs at Club region and State level in particular where issues of this type arise on an irregular basis.

SAL also provides support to Individual Members who are seeking more information about implementation of the policies as it pertains to their enquiry/complaint.

SAL acts quickly on enacting the policy when they become aware of issues either directly from a Member, via a MPIO, through Club, Region, State/Territory Association or ASCTA or via media.