



SWIMMING AUSTRALIA

CHILD WELFARE POLICY

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PREFACE

A Message from the President

SAL is committed to the health, safety and general well-being of all its members. The organisation is dedicated to providing a safe environment for our members and of service providers participating in our activities.

Sport in Australia is held as a positive influence that enriches the lives of all who are involved. As Australians, we greatly value this essence of sport in our culture and our community, and we all have the right to enjoy our sport, at whichever level we participate. This Policy is an essential part of our organisation's proactive and preventative approach to tackling inappropriate behavior relating to children.

As a sport, we are proud to lead the way in ensuring safe and harassment-free sport for all of our competitors, coaches, officials, administrators, volunteers and supporters.

SAL believes that the welfare and protection of Children is the responsibility of each individual and organisation within the Swimming community. SAL recognises that everyone has a part to play in looking after Children with whom they are working, or come into contact and we are committed to the following principles:

1. The child's welfare is the first and foremost consideration
2. All children have the right to be protected from abuse

It is our commitment to ensure that everyone associated with SAL complies with this Policy and the guiding principles of child welfare.

I wish you all safe and successful swimming.

Neil Martin

President

SWIMMING AUSTRALIA LIMITED

PART A – CHILD WELFARE POLICY

1. Swimming Australia's Core Values

Swimming Australia's strategic plan *Swimming for Life* states our vision as "Swimming seeks to become Australia's leading sport through increased participation, continual outstanding performances and commercial excellence". The plan represents SAL's strong commitment to its individual members, including children, to provide an environment characterised by fairness, safety and respect, and our desire to nurture and protect the sport because of its intrinsic value to the entire Australian community. SAL is committed to the protection of Children within our sport and will not tolerate practices in breach of this Policy. This Child Welfare Policy reflects this commitment.

2. Purpose of this Policy

This Policy stems from the following guiding principles:

- (a) the Child's welfare is the first consideration;
- (b) all Children, regardless of age, gender, racial origin, religious belief, sexual identity and or disability, have a right to enjoy sport free from Child Abuse and all forms of Bullying, Harassment and Discrimination;
- (c) all individuals and organisations involved with our sport have responsibilities for the welfare of Children in our sport and are bound by this policy; and
- (d) all individuals and organisations involved with our sport must act in accordance with the law in relation to child protection issues.

Through this Policy, SAL aims to ensure that:

- (a) every child involved in our sport is treated with respect and dignity and is safe and protected from Child Abuse, Bullying, Harassment or Discrimination;
- (b) our core values, good reputation and positive behaviours and attitudes are maintained; and
- (c) everyone involved in our sport is aware of his or her legal and ethical rights and responsibilities relating to the welfare of Children.

Any form of Bullying, Harassment or Discrimination is actionable if the victim feels distress or concern as a result of the aggressive and upsetting behaviour. Descriptions of behaviour which could be regarded as Bullying, Harassment or Discrimination are provided in the Dictionary page 9.

The "General Information & Procedures" for this Policy provide the procedures that support our commitment to preventing Child Abuse, Bullying, Discrimination, Harassment and other forms of inappropriate behaviour in our sport.

This Policy is supplemented by SAL's Member Welfare Policy, which provides specific guidelines and Complaints Procedures relating to the welfare and well being of all members in our sport. Both this Policy and the Member Welfare Policy have been endorsed by the Board of SAL. Together these two Policies replace the original Member Protection Policy endorsed in October 2002 and start on 1 July 2007 and will operate until replaced.

This Policy and accompanying procedures may be amended from time to time by resolution of the Board of Directors of SAL. Copies of the Policy and its attachments can be obtained from our office and our website www.swimming.org.au.

3. Who this Policy Applies To

This Policy applies to SAL, its Stakeholders, Directors, Employees, Contractors, Volunteers and Members, provided that this Policy only applies to an affiliate if the Policy is formally adopted by that affiliate.

It is intended that this Policy also apply to the following, whether they are in a paid, unpaid or voluntary capacity:

- (a) support personnel including but not limited to team/squad managers, physiotherapists, psychologists, masseurs, and sport trainers;
- (b) coaches and assistant coaches;
- (c) technical Officials; and
- (d) any other person or organisation that is a member of or affiliated to SAL or who, in the reasonable opinion of SAL's Board, should be bound by this Policy, such as parents, guardians, spectators and sponsors to the full extent that is possible.

This Policy will continue to apply to a person even after they have stopped their membership, association or employment with SAL, or its Member Associations, if disciplinary action has been taken against them under this Policy during that person's membership, association or employment with that respective organisation.

4. Responsibilities

All Individuals and organisations bound by this Policy have a role to play in discouraging unacceptable behaviours in the Swimming environment and in promoting a tolerant and enjoyable atmosphere for all persons involved in Swimming. SAL and its Members must:

- (a) adopt, implement and comply with this Policy and its accompanying procedures;
- (b) cause the respective members of Member Associations to agree to be bound by and adhere to this Policy;
- (c) publish, distribute and otherwise promote this Policy and the consequences for breaching it;
- (d) promote appropriate standards of conduct at all times;
- (e) promptly deal with any breaches of or Complaints made under this Policy in an impartial, sensitive, fair, timely and confidential manner;
- (f) apply this Policy consistently without fear or favour;
- (g) recognise and enforce any penalty imposed under this Policy irrespective of the party imposing the penalty;
- (h) ensure that a copy of this Policy is available or accessible to the persons to whom this Policy applies; and
- (i) appoint or have access to appropriately trained people to receive and handle Complaints and allegations and display the names and contact details in a way that is readily accessible.

Specifically:

- (j) SAL, Clubs, Member Associations, Affiliates, MPIOs and people in positions of authority (including but not limited to coaches, officials and managers) should understand what Child Abuse, Bullying, Harassment and Discrimination are, know this Policy and follow and implement the correct Complaints Procedures when any of these behaviours are reported.

- (k) Coaches, officials and other persons in positions of authority should:
 - (l) be alert to these behaviours and signs of distress and anxiety in Athletes and other persons;
 - (m) respond to incidents of Child Abuse, Bullying, Harassment and Discrimination according to this Policy and Complaints Procedure;
 - (n) model tolerant and accepting behaviours; and
 - (o) make it known that Child Abuse, Bullying, Harassment and Discrimination are not acceptable, no matter what the excuse.

5. CLUB OBLIGATIONS

Clubs should:

- (a) make recognition and adherence to this Policy and Complaints Procedure a condition of membership of the Club;
- (b) disseminate information on this Policy widely to make the Policy known and available to all members and employees (paid and voluntary);
- (c) respond to incidents of Child Abuse, Bullying, Harassment and Discrimination according to this Policy and Complaints Procedure;
- (d) act in the best interests of their Child members and their safety and welfare; and
- (e) foster an environment of tolerance, friendship and enjoyment.

SAL has developed a Behavioural Guidelines as advice on acceptable behaviour for all of its members.

6. CHILD WELFARE REQUIREMENTS

Every organisation and individual bound by this Policy must always place the safety and welfare of Children above all other considerations.

SAL and its Member Associations acknowledge that their members, employees, directors, contractors and volunteers provide a valuable contribution to the positive experiences of Children. These organisations must aim to ensure this continues and to protect the safety and welfare of Children. Several measures to achieve this include:

- (a) prospective employees of organisations bound by this Policy must have a police check before their employment can commence;
- (b) compliance with Commonwealth, State and Territory child welfare laws;
- (c) prohibiting any form of Child Abuse, Bullying, Harassment and Discrimination against Children;
- (d) carefully selecting and screening individuals whose role requires them to have regular contact with Children;
- (e) providing Complaints Procedures for raising concerns or complaints; and
- (f) providing education and information to those involved in our sport on Child Abuse, Bullying, Harassment, Discrimination and Child protection.

This Policy requires that any person who knows or reasonably suspects that a Child is or has been the victim of Child Abuse by someone involved in or related to swimming, report it immediately to the Police or relevant Government agency and the CEO of the Involved Organisation.

The CEO of the Involved Organisation must:

- (a) seek guidance from the Police or the relevant Government agency about whether it is appropriate for the Complaints Procedures under the "General Information and Procedures" to be enacted; and
- (b) promptly report the allegation to the CEO of SAL and thereafter continue to keep the CEO of SAL or its delegate informed on the status of the matter.

All allegations of Child Abuse must be dealt with promptly, seriously, sensitively and confidentially. A person will not be victimised for reporting an allegation of Child Abuse and the privacy of all persons concerned will be respected. The Complaints Procedures for handling allegations of Child Abuse are outlined in the "General Information and Procedures" and must be followed.

7. Best Practice Procedures

The following best practice procedures are strongly recommended for those in contact with Children.

At training or at competitions organisations and individuals bound by this Policy should:

- (a) ensure that there is enough supervision as appropriate for the age of the Children;
- (b) ensure that Children have access to a responsible adult of the same gender as the children concerned, at all possible times;
- (c) avoid private one-on-one situations with Children and have any meeting in the presence of another Athlete or responsible adult, or in an open and clearly visible area;
- (d) foster an environment of friendship, cooperation, tolerance and good sportsmanship between Children;
- (e) ensure that any immediate disciplinary measures are non-violent and do not involve humiliation or cause anxiety;
- (f) be aware of and be quick to act on any games that are physically rough or sexually provocative or that involve inappropriate language or contact;
- (g) get the consent of a Child before making physical contact with them and let the Child know what you are doing and why;
- (h) ask gender appropriate officials, parents or guardians to be responsible for Children while in the changing rooms;
- (i) ensure where Children are being picked up from training or the event, depending on the age of the Child, Children should be collected from a pre-determined area so the coach or other responsible official can recognise when a Child has not been picked up and arrange for appropriate supervision;
- (j) ensure for older Children, an action plan be discussed with the squad so that such Children can find a safe way home; and
- (k) ensure children are not invited to a coach's house or other adult in a position of authority unless accompanied by that Child's parent or guardian, or with the consent of a parent or legal guardian.

At camps or competitions requiring overnight accommodation organisations and individuals bound by this Policy should also ensure that:

- (a) teams are appropriately accompanied by the same gender coaches and officials;
- (b) Children room with Children of the same gender and where appropriate and available, with other Children of approximately the same age;
- (c) coaches, officials and other responsible adults of the opposite gender are accompanied by a coach, official or other responsible adult of the same gender if there is a need for them to enter the living or sleeping area of Children of the opposite sex, and where possible, this should be avoided and all contact should be in "group time";
- (d) any transport provided to a Child by private car by a coach, official or other responsible person occurs with prior consent of the parents or guardians of the Child (unless in an emergency) and that an additional adult, preferably of the same gender as the Child (or other older Children) is also in the car. Children should always sit in the back seat; and
- (e) where transport is provided to Children in a mini-bus or larger vehicle there is adequate age-appropriate supervision with at least one same gender (of children) coach, official or other responsible adult present at all times.

8. What is a Breach of this Policy

It is a breach of this Policy for any person or organisation to which this Policy applies to have been found to have:

- (a) done anything contrary to or in breach of this Policy;
- (b) Discriminated against, Bullied, Harassed or inflicted Child Abuse on any Child;
- (c) victimised another person for reporting a complaint;
- (d) failed to follow SAL policies and procedures for the protection, safety and welfare of Children;
- (e) disclosed to any unauthorised person or organisation any information in relation to a complaint under this Policy of a private, confidential or privileged nature;
- (f) made a complaint under this Policy that they knew to be untrue, vexatious, malicious or improper;
- (g) appointed or continued to appoint a person to a role that involves working with Children contrary to this Policy;
- (h) failed to comply with a penalty imposed after a finding that the individual or organisation has breached this Policy;
- (i) engaged in a sexually inappropriate or unlawful relationship with a Child; and
- (j) failed to comply with a direction given to the individual or organisation during the Complaints Procedure.

9. Complaints Procedures

This Policy aims to provide an easy to use, confidential and trustworthy process for Complaints Procedures based on the principles of Natural Justice. Any person may make a Complaint about an organisation or individual bound by this Policy if they reasonably believe that an organisation or individual bound by this Policy has breached this Policy. All Complaints will be dealt with promptly, seriously, sensitively and confidentially and in accordance with the Complaints Procedure.

Any Complaint involving Child Abuse must be regarded as a formal complaint under the Complaints Procedure.

SAL, Member Associations and Affiliates who adopt this policy, must take all reasonable steps to make sure that people involved in a Complaint are not victimised by anyone for coming forward with a Complaint or for helping to deal with it. Disciplinary measures will be imposed on anyone who victimises another person for making a Complaint.

10. Forms of Discipline

If an organisation or individual bound to this Policy breaches this Policy, one or more forms of discipline may be imposed. These may include but are not limited to making a verbal or written apology, paying a fine, being suspended or de-registered or having a person's appointment or employment suspended pending formal Police investigations. More information on the range of disciplinary measures and the factors that will be considered before imposing discipline is contained in the "General Information and Procedures".

11. Dictionary

This Dictionary sets out the meaning of words used in this Policy and in the "General Information and Procedures" without limiting the ordinary and natural meaning of the words. Where a term is not defined it should be given its ordinary and natural meaning.

Abuse means any form of Harassment and includes all abuse as defined in Child Abuse as well as physical abuse, emotional abuse (including psychological abuse), sexual abuse, neglect, and abuse of power that has caused, is causing or is likely to cause harm to a child's wellbeing or development. Examples of abusive behaviour include but are not limited to bullying, humiliation, verbal abuse and insults.

Affiliate has the same meaning given to the term under the SAL Constitution.

Athlete means a swimmer, diver, water polo player or synchronised swimmer, whether recreational or competitive and who is an individual member of SAL, a Member Association or Affiliate.

Appeals Tribunal means a tribunal constituted according to Part 2.0 of this Policy.

Attachment means an attachment to this Policy.

Bullying means any use of aggression or taunting with the intent to cause harm to the victim. It may be physical or emotional and in serious cases may also be Discrimination. Bullying may be done in person, by phone, email, SMS or other means.

CEO means the chief executive officer of SAL or a stakeholder organisation, and includes the executive officer, general manager or other similar title.

Child/Children means an Athlete or individual who is under 18 years of age.

Child Abuse is any form of behaviour directed towards a child that is a crime as indicated by the *Crimes Act 1900* (Cth) and any other Commonwealth, State or Territory child welfare legislation as applicable from time to time and includes, but not limited to:

- physical abuse;
- sexual abuse;
- emotional abuse;
- neglect; and
- any other violation of a Child by a person in a position of trust and authority.

Club has the same meaning given to the term under the SAL Constitution.

Complaint means a Complaint made under clause 8 of this Policy where a breach under clause 7 has occurred.

Complainant means the person making a Complaint and includes a parent, guardian or adult representative of the child.

Complaints Procedure means the Complaints Procedure set out in the "General Information and Procedures).

Discrimination means treating, proposing to treat or requesting, assisting, instructing or encouraging another person to treat a person less favourably than someone else on the basis of an attribute or personal characteristic they have. The relevant attributes or characteristics include but are not limited to the following:

- age;
- disability;
- marital status;
- parental or carer status;
- physical features;
- political belief or activity;
- pregnancy;
- race;
- religious belief or activity;
- sex or gender;
- sexual orientation;
- trade union membership or activity; and
- transgender orientation.

Discrimination also includes any other behaviour recognised by Commonwealth, State or Territory law as discrimination.

Harassment is any type of behaviour that the other person does not want, that is offensive, abusive, belittling or threatening, 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. Harassment includes Bullying.

Unlawful harassment includes the above but may be of a sexual nature or target a person because of their race, sex, pregnancy, marital status, sexuality or other characteristic (see characteristic list under Discrimination).

The basic rule is if someone else finds it harassing then it may be harassment. Harassment may be a single incident or repeated. It may be explicit or implicit, verbal or non-verbal.

Hearing Tribunal means the panel created in accordance with the "General Information and Procedures" to hear a complaint under this Policy.

Involved Organisation means the relevant organisation to receive a Complaint and may be SAL, a Club, Member Association or Affiliate.

Mediator means a person appointed to mediate a Complaint made under this Policy, preferably with relevant skills, qualifications or training in mediation.

Member has the same meaning given to the term under the SAL Constitution.

Member Association has the same meaning given to the term under the SAL Constitution.

Member Protection Information Officer and MPIO 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 Harassment or a breach of this Policy.

Natural Justice incorporates the following principles:

- a person who is the subject of a Complaint must be fully informed of the allegations against them;
- a person who is the subject of a Complaint must be given full opportunity to respond to the allegations and raise any matters in their own defence;
- all parties need to be heard and all relevant submissions 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; and
- the penalties imposed must not outweigh the breach of this Policy or offending behaviour.

Panel Members means a member of an Appeals Tribunal or Hearing Tribunal convened under this Policy.

Policy means this Child Welfare Policy and its Attachments.

Respondent means the person who is being complained about.

SAL means Swimming Australia Limited

SAL Constitution means the constitution of SAL as in force and amended from time to time.

Victimisation means subjecting a person or threatening to subject a person to any detrimental or unfair treatment because that person has or intends to pursue their rights to make a Complaint under law or under this Policy, or for supporting another person to make a Complaint.

12. Other relevant Policies

Other relevant policies can be found at www.swimming.org.au. Some of those policies which contribute to the welfare of all our Members include:

(a) **Member Welfare Policy**

This Policy aims to ensure that our core values, good reputation and positive behaviours and attitudes are maintained. It assists us in ensuring that every person involved in our sport is treated with respect and dignity, and is safe and protected from abuse. This Policy also aims to ensure that everyone involved in our sport is aware of his or her legal and ethical rights and responsibilities.

(b) Privacy Policy

SAL routinely collects personal information about individuals and considers that protecting their personal information is important and SAL takes their right to privacy seriously. The Privacy Policy covers SAL's regulations on the collection, purpose, storage, use and distribution of information.

(c) Risk Management Policy

Risk Management identifies the chance of something happening which will impact on an organisation's objectives, measured in terms of consequence and likelihood. SAL's Risk Management Policy aims to reduce, transfer or avoid risks in order to protect its Member.

(d) Anti-Doping Policy

SAL is bound by the World Anti Doping Authority and Australian Sports Anti Doping Agency policies in ensuring Athletes are able to participate in a drug free environment.

PART B: SAL CHILD WELFARE REQUIREMENTS

Background

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

In New South Wales, Queensland, Victoria and Western Australia child protection legislation places specific requirements upon individuals and organisations involved in a range of areas including sport and recreation. The South Australian, Australian Capital Territory, Northern Territory and Tasmanian respective Governments are currently developing child protection legislation that will also impact upon sport, with the South Australian legislation soon to be proclaimed. These new requirements or any amendments to the existing requirements will be added to this Policy as they are introduced.

Please be aware that State and Territory Child protection requirements also apply to individuals and organisations originating outside of the States and Territories with the legislation in place. For example, where those traveling as a part of a Member Association Team taking Children into New South Wales for training camps, competition or other activities, must comply with the NSW legislative requirements.

As part of SAL's commitment to protecting the safety and welfare of Children involved in the sport's activities, this Policy requires individuals and organisations bound by this Policy to meet the requirement of States and Territory legislation where specific legislation exists and provide procedures for other State and Territories until new child protection legislation relevant to that specific State and Territory is introduced.

This Part contains information on the requirements of each State and Territory. This information is subject to change at any time.

Attachment B1: QUEENSLAND CHILD WELFARE REQUIREMENTS

This information is subject to change at any time. Refer to the Queensland Commission for Children and Young People and Child Guardian's website: www.ccypcg.qld.gov.au or contact 1800 113611.

In Queensland the *Commission for Children and Young People and Child Guardian Act 2000* requires people who work with children under 18 years of age in certain categories of employment regulated by the Act to hold a "blue Card". The application for a "blue card" and the subsequent check is an assessment of the persons eligibility to with children based on their criminal history and certain professional, certain disciplinary information, if any and an investigative information (if any) held by the Police Commissioner. Those found suitable to work with children and young people are issued with a blue card. The blue card must be renewed every two years.

Association/club requirements

Swimming Queensland (SQ) and its affiliated clubs are responsible for applying to the Queensland Commission for Children and Young People and Child Guardian (CCYPCG) for Working with Children Checks on employees and volunteers where the nature of the work falls under one of the categories regulated by the Act. People carrying on a regulated business are responsible for applying for their own Blue Card. These requirements apply despite the existence or absence of this Policy.

Interstate sporting organisations visiting Queensland for events, camps or other activities taking place in Queensland may also need to apply for a blue card if the nature of their activities are regulated under one of the categories of the Act.

All our volunteers and certain paid employees that work with children or young people in the following categories of employment and commenced after 1 May 2001 must apply for a blue card:

- (a) schools - employees other than teachers including non-teaching staff (irrespective of commencement date);
- (b) private teaching, coaching or tutoring;
- (c) education programs conducted outside of schools(irrespective of commencement date);
- (d) sport and active recreation;
- (e) clubs associations involving children;
- (f) Child accommodation services (which includes billets).

Application forms for paid employee, volunteer or person carrying on a regulated business can be downloaded from www.ccypcg.qld.gov.au. Screening for volunteers is free and for paid employees and people carrying on a regulated business is \$40.00. The fee is to be paid by the individual Member.

Paid Employees

Who work, or are likely to work, with children and young people for at least:

- (a) eight consecutive days; or
- (b) once a week, each week, over four weeks; or
- (c) once a fortnight, each fortnight, over eight weeks; or
- (d) once a month, each month over six months,

must undergo a Police check.

Paid employees can begin or continue to work in regulated employment while waiting for the outcome of their blue card application once it is lodged.

If SQ knows or reasonably suspects that an employee who is not retrospectively checked has a criminal history relevant to the working with children or young people, then SQ can apply for a blue card for that person. The application form for this is a 'Current Employee blue card application form'.

Recent amendments to the Act require SQ to develop and implement a risk management strategy to promote the well-being of children in their care and protect them from harm.

The strategy caters for the following types of employees:

- (a) a person who has started work pending the outcome of their blue card application;
- (b) a blue card holder;
- (c) a person in regulated employment who is not required to hold a blue card; and
- (d) a person who the Commissioner is reassessing.

The key elements are:

- (a) Child Protection Policy;
- (b) Communication and support strategies; and
- (c) Documentation of risk management process.

Volunteers

Volunteers working with children in SQ and its affiliated Clubs must have a blue card, unless exempt before commencing work, regardless of how often they come in contact with children and young people. Application forms for us to apply for a suitability notice for a volunteer can also be downloaded from www.ccypcg.qld.gov.au. Screening for volunteers is free.

Exemptions

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

- (a) children under 18 who are volunteers (except trainee students required to work in regulated employment as part of their studies with SQ); and
- (b) parents who volunteers their services or conduct activities through SQ or are involved in sport and active recreation activities where their Child or Young Person is also a member of SQ.

(Only exemptions relevant to the activities of SQ have been listed above.)

Businesses:

A person carrying on the following regulated businesses within SQ must also apply for a blue card:

- (a) private teaching, coaching or tutoring;
- (b) education programs conducted outside of schools; and
- (c) providers of recreational activities such as sporting camps and programs (excluding amusement parks).

(Only the regulated businesses which conduct activities of relevance to SQ have been listed above.)

Attachment B2: NEW SOUTH WALES CHILD WELFARE REQUIREMENTS

This information is subject to change at any time. Refer to the NSW Commission for Children and Young People website: www.kids.nsw.gov.au or contact 02 9286 7219.

All Swimming NSW (SNSW) Clubs and associations who engage/employ people in Child-related activities (in a paid or voluntary capacity) must meet the requirements of the Working with Children Check. This is a legal requirement. You are required to:

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

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

Employment includes work done:

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

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

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

- murder;
- sexual offences;
- indecency offences;
- kidnapping;
- child prostitution; or
- child pornography.

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

Reportable conduct is:

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

Attachment B3: WESTERN AUSTRALIA CHILD WELFARE REQUIREMENTS

This information is subject to change at any time. Refer to the Department of Community Development Website: www.checkwwc.wa.gov.au.

On 1 January 2006, certain people working with children in Western Australia will be required to have a Working with Children Check (Check)- a national criminal history check and assessment of any record that appears as part of this check. The Working with Children Check is compulsory under the Working With Children (Criminal Record Checking) Act 2004. The purpose of the Check is to determine whether someone has a criminal history that indicates they may harm children.

The Check will be phased in across different sectors over five years. A successful Check will result in the applicant being issued with an Assessment Notice in the form of an ID card which allows that person to work or volunteer with children across different types of "child related work". The Assessment notice will be valid for three years. If the Check is unsuccessful, a Negative Notice will be issued which means the person is barred from child-related work.

A Check will be required by volunteers, employed and self-employed people in 'child-related work'. Work is child-related if the usual duties of the work involves or is likely to involve contact with children in connection with relevant categories, such as:

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

(Note: only the areas of relevance to sporting organisations have been listed above)

Exemptions

The following groups will be exempt from the legislation and will not need to have a Working With Children Check:

- volunteers under 18 years;
- employers of children, or adult employees who have contact with a child-employee in the workplace (unless they are carrying-out child-related work);
- registered teachers, who require a national criminal record check as part of their registration under the *Western Australian College of Teaching Act 2004*; and
- parents who volunteer in activities in which their children are also involved.

Obligations – Paid Employees, Volunteers and Self-Employed Workers

All paid employees, volunteers and self employed workers must:

- Apply for a Working with Children Check. For the first five years of implementation, applications for the Check must be made in accordance with the phasing-in requirements.
- Renew Check every three years.
- If convicted of a relevant offence (Class 1) after receiving an Assessment Notice, you must cease 'child-related work' immediately and notify employer as soon as possible.
- If charged or convicted of a Class 1 or 2 offences you are required to provide written notice to your employer of a relevant change in your criminal record.

Obligations – Employers and Organisations

An employer or organisation must:

- Not start or continue an employee or volunteer in 'child-related work' on more than five days in a calendar year unless he or she
 - has applied for a check, or
 - already holds a current assessment notice by the date they are required to under the phasing in arrangements.
- Not start or continue someone in 'child-related work' if they are aware that the person has a conviction or pending charge for a Class 1 or Class 2 offence, and the person does not hold a current Assessment Notice or have a pending application for a Check.
- Notify the Working with Children Screening Unit or an Approved Screening Agency as soon as possible if any employee or volunteer tells them of a relevant change to his/her criminal record.

A full list of Class 1 and Class offences can be downloaded from www.checkwwwc.wa.gov.au

Phasing-in Arrangements

Phasing-in arrangements will be in the Regulations currently being drafted and will be available on the website once the Regulations are completed. The intended phasing-in arrangements that are relevant to the sport and recreation sector are:

Now commenced

- Volunteers working with children aged 0-7 years in any category of child-related work.
- Self –employed people working with children in connection with any category of child-related work, except
 - Child care licencees
 - Registered teachers working in educational settings
 - Persons with an F or T drivers licence endorsement who carry out a transport service specifically for children
 - Coaching or private tuition service for TAFE etc

- o Clubs, associations or movements with a significant membership or involvement of children

Commencing in 2007

- Volunteers working with children aged 8-12 years in any category of child-related work
- New public sector employees who commenced child-related work after 1 January 2006

Commencing in 2008

- Volunteers working with children aged 13-17 years in any category of child-related work

Commencing in 2009

- Continuing paid employees who have remained in the same child-related work they were in before 1 January 2006 and are still in that position

Attachment B4: VICTORIA CHILD WELFARE REQUIREMENTS

This information is subject to change at any time. Refer to the Victorian Department of Justice website: <http://www.justice.vic.gov.au> or contact 1300 652 879. This information is current as at 4 October 2005.

The *Working with Children Act 2005 (Vic)* requires individuals who work or volunteer with children in certain capacities in identified occupations and activities to undergo screening for criminal offences. A person who has no relevant criminal or professional disciplinary history will be granted an assessment notice and entitled to undertake child-related work. A negative notice will also be issued to unsuitable people.

Child related work is work that usually involves regular direct contact with a child (under 18 years of age) where that contact is not directly supervised by another person and includes, but is not limited to:

- Clubs, associations or movements (including of a cultural, recreational or sporting nature) that provide services or conduct activities for or directed at children or whose membership is mainly comprised of children;
- Coaching or private tuition services of any kind for children; and
- Educational institutions for children (such as schools and some TAFE programs for children).

A Working with Children Check will check for relevant criminal convictions or findings of guilt, pending charges and relevant professional disciplinary findings. The check will also identify whether a person is on the Sex Offenders Register or subject to an extended supervision order under the *Serious Sex Offender Monitoring Act 2005*.

An applicant will be required to nominate whether the Check is for voluntary or paid work. It will be an offence to be employed in child related work if the employee only holds a volunteer Working with Children Check.

Exemptions

The following people are not required to have a Working with Children Check:

- minors under 18;
- parent volunteers in an activity in which their own child ordinarily participates;
- secondary school student aged under 20 performing volunteer work arranged through the school;
- sworn members of Victoria Police;
- registered teachers with the Victorian Institute of Teaching; and
- visitors to Victoria who do not ordinarily perform child-related work in Victoria.

Phase In Arrangements

Mid-2006/07	Child protection, juvenile justice, foster carers, school crossing services, outside school hours care, family day care, schools and overnight camps
2007/08	Childcare services, pre-schools and kindergartens, religious organisations, refuges and other residential facilities, transport and counseling services for children
2008/09	Pediatric wards in hospitals, commercial child minding and babysitting services, and Clubs and Associations.
2009/10	Coaching or private tuition, and Clubs and Associations.
2010/11	Commercial entertainment, gym or play facilities, photography and talent services specifically for children, and Clubs and Associations.

Application Details

The check will be free for volunteers, however, those who perform paid child-related work, or a combination of paid and unpaid work, will be liable for a fee of approximately \$70.00. Working with Children cards will be valid for five years.

Application forms for Working with Children Checks will need to be submitted with a passport sized photo, and 100 points or more of identification will need to be sighted.

Attachment B5: SOUTH AUSTRALIAN CHILD WELFARE REQUIREMENTS

Recent amendments to the Childrens Protection Act 1993 in South Australia as per the Childrens Protection (Miscellaneous) Amendment Act 2005 promote a whole of community responsibility to the care and protection of children and young people.

The new provisions require government, non-government and volunteer organisations that are entrusted with the care of children to have strategies in place to prevent and minimise opportunities for abuse and to appropriately respond when abuse occurs or is suspected.

Standards are to be developed and are likely to include:

- Codes of conduct and principles of good practice for working with children
- Guidance on standards of conduct for adults in dealing with children
- Advice on how to deal with case of bullying or harassment of a child

Amendments to the act will require sporting organisations to develop or comply with criminal history check provisions. This may mean undertaking a criminal history check for any person in a prescribed position (including employees, volunteers, agents)

Mandatory reporting is currently a requirement under South Australian law. This means those people covered by the law must report reasonable suspicions of child abuse. Under the new legislation persons employed by, or volunteering in, organisations that provide sporting or recreational services from children will also be mandated.

Until legislation is proclaimed clubs should continue to follow generic child protection requirements as set out in "Child Protection in Sport-National Overview" document available from the Australian Sports Commission website.

Attachment B6: CHILD WELFARE REQUIREMENTS – OTHER STATES

This attachment sets out the current screening process for individuals who currently occupy or who apply for any work (paid or voluntary) in Member Associations, Affiliated Associations and their clubs and other affiliated organisations in Northern Territory, Tasmania and Australian Capital Territory that involves regular contact with Children.

Screening under this Policy is not a replacement for any other procedure required by law. If State or Territory legislation sets an equivalent or higher standard of screening, the requirement to screen people under the process outlined below need not be followed.

Association/Club requirements

Under this Policy, organisations bound by this Policy in Northern Territory, Tasmania and Australian Capital Territory are required to:

1. Identify positions (paid and voluntary) that involve working with Children.
2. Obtain a completed Child Welfare Declaration (Attachment B6) from all individuals who are bound by this Policy if they occupy or apply for a position that involves working with Children. The Child Welfare Declaration should be kept in a secure place.

If a Child Welfare Declaration is not provided, or it reveals that a person does not satisfactorily meet with one or more of the clauses in the Child Welfare Declaration (e.g. has a relevant criminal conviction), the relevant organisation will:

- provide an opportunity for the person to respond/provide an explanation; and
- make an assessment as to whether the person may pose a risk to or be unsuitable to work with Children.

If unsatisfied, then the relevant organisation will:

- in the case of an existing employee or volunteer, transfer the person to another role which does not require them to work directly and unsupervised with Children. If this is not possible, then legal advice should be obtained about that person's engagement or employment; and
 - in the case of a person applying for the position or role, not appoint them.
3. Check a person's referees (both verbal and written) and interview a person about his or her suitability for the role and his or her suitability for working with Children for both paid and voluntary positions.
 4. Ask people applying for and people who currently occupy a paid position that involves regular contact with Children to sign a consent form for a police check (Information on Police checks and forms can be found at www.ausport.gov.au/ethics/policechecks.asp).
 5. Request a Police check from the relevant police jurisdiction for people applying for, and people who currently occupy, paid or voluntary positions that involve regular contact with Children.

In most police jurisdictions a 'Part Exclusion' check for people working with children can be requested. This check excludes irrelevant records.

If the police check indicates a relevant offence, the relevant organisation should:

- provide an opportunity for the person to respond/provide an explanation, and
- make an assessment as to whether the person may pose a risk to or be unsuitable to work with Children.

If unsatisfied, then the relevant organisation will:

- in the case of an existing employee or volunteer, transfer the person to another role which does not require them to work directly and unsupervised with Children. If this is not possible, legal advice should be obtained before the termination process begins; and
- in the case of someone applying for the position or role, not appoint them.

If the person does not agree to a Police check after explaining why it is a requirement, the relevant organisation should make an assessment as to whether the person may pose a risk to or be unsuitable to work with Children. If unsatisfied, the relevant organisation will:

- in the case of an existing employee or volunteer, transfer the person to another role which does not require them to work directly and unsupervised with Children. If this is not possible, legal advice should be obtained before the termination process begins; and
- in the case of someone applying for the position or role, not appoint them.

6. Decide whether to offer the person the position or retain the person in the position, taking into account the result of the Police check and any other information the relevant organisation has available. Where it is not practical to complete the Police check prior to employment commencing, the relevant organisation must still complete the check as soon as possible. The relevant organisation will advise the person that their ongoing employment is conditional upon the satisfactory outcome of the Police check.
7. Where a Police check is obtained under this Policy, another organisation which is also required to screen may obtain a copy of the Police check provided that the consent of the relevant person is obtained and the Police check was performed in the immediately preceding two years.
8. Protect the privacy of any person who is checked and the confidentiality of any information obtained through the checking process. Information collected during screening (such as a completed Child Welfare Declaration form, Police check and referee reports) will be returned to the relevant person if that person is not appointed to or will not remain in the position, or otherwise be destroyed with the consent of the person concerned.

Attachment B7: CHILD WELFARE DECLARATION

Swimming Australia Limited ("SAL"), Members Associations and Affiliates have a duty of care to their members and to the general public who interact with those organisations, employees, volunteers, members and others involved with swimming activities. As part of this duty of care and as a requirement of SAL's Child Welfare Policy, SAL, Member Associations and Affiliates must enquire into the background of those applying for, undertaking or remaining in any work (paid or voluntary) that involves regular contact with Children.

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 or acts of violence.
3. I have not had any disciplinary proceedings brought against me by an employer, sporting organisation or similar body involving Child Abuse, Abuse or Harassment (as defined in SAL's Child Welfare Policy).
4. I have never been sanctioned for an anti-doping rule violation under any anti-doping policy applicable to me.
5. I have never participated in, facilitated or encouraged any practice prohibited by the World Anti-Doping Agency Code or any other anti-doping policy applicable to me.
6. To my knowledge there is no other matter that SAL may consider to constitute a risk to Children, 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 for whatever reason.

Declared in the State/Territory of

on/...../.....(date) Signature

Parent/Guardian Consent (in respect of 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:

Attachment B8: Child Welfare – Jurisdictional Requirements

	Queensland	New South Wales	Western Australia	Victoria	Other States
Volunteers - Cost	NIL	NIL	\$10.00	NIL	NIL
Paid Employees - Cost	\$40.00	NIL	\$50.00	\$70.00	NIL
Police Check - Paid Background Check	√ Where regular contact only	√ All	√ All, unless less than 5 days per year	√	√ Where regular contact only
Police Check – Volunteer	√ All	X	√ All	√	√ Where regular contact only
Exemptions	Children volunteers, parent volunteers	Volunteers generally	Children volunteers, registered WA teachers, parent volunteers.	Children generally, parent volunteers, VIC Police, registered VIC teachers, visitors not normally performing child work in Victoria	Child volunteers and parent volunteers
Declaration Required	X	√ Volunteers and paid employees	X	X	√
Valid For	2 years	Employees – indefinitely while with the same employer	3 years	5 years	Indefinitely – while with the same employer