



# *Member Protection Policy*

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# Part I - Application of the Policy

## TA Member Protection Policy

### 1. Purpose of the Policy and Definitions

- 1.1 The purpose of this Policy is to protect the health, safety and well-being of those who participate in the activities of Tennis Australia, Member Associations, Affiliated Organisations, Member Affiliated Organisations, Regional Associations and Affiliated Clubs ('Australian Tennis Organisations' or hereafter 'ATOs').
- 1.2 Tennis Australia seeks to provide a safe environment for those participating in the activities of ATOs particularly children under the age of 18 years by:
- (a) Implementing screening measures to ensure only appropriate persons work with children (clause 6); and
  - (b) Dealing with alleged offending behaviour of harassment, abuse and discrimination (clause 8).
- 1.3 The following terms have the following meanings in this Policy:

Abuse is a form of Harassment defined in clauses 8.8 and 8.9.

Affiliated Clubs means those tennis clubs, which are a member of or affiliated to a Regional Association and/or a Member Association.

Affiliated Organisations means those organisations (other than Member Associations, Regional Associations and Affiliated Clubs) which are affiliated to Tennis Australia from time to time in accordance with its constitution.

Child Abuse relates to children at risk of harm (usually by adults, sometimes by other children) and often by those they know and trust. Child Abuse as defined in clause 8.8(e) is an offence and will not be tolerated.

Discrimination is singling someone out and treating them unfairly because of certain personal characteristics as defined in clauses 8.12 and 8.13. Discrimination is an offence and will not be tolerated.

Existing Appointee means a person currently elected, appointed or holding a position in any ATO whether by way of employment, contract or otherwise and whether paid or unpaid.

Harassment is repeated unwelcome behaviour that is offensive, belittling, or threatening to a person as defined in clauses 8.2 and 8.4. Harassment is an offence and will not be tolerated.

## *TA Member Protection Policy*

Member Affiliated Organisations means those organisations (other than Regional Associations and Affiliated Clubs) which are members of or affiliated to Member Associations and / or Affiliated Organisations and by way of example include:

- (a) Tennis Umpires Australia Queensland Division Inc
- (b) Tennis Seniors New South Wales Inc

Member Associations means members of Tennis Australia in accordance with its constitution.

Member Protection Officer means a person appointed in accordance with clause 4.2.

Natural Justice incorporates the principles set out in clause 13.1(c).

Officials includes referees, court supervisors, chair umpires, lines people and other related tournament officials.

Police Check means a current national police check conducted by a State, Territory or Federal law enforcement agency, obtained no earlier than the date of application for the relevant position.

Preferred Appointee means a person short listed for a position in any ATO whether by way of employment, contract or otherwise and whether paid or unpaid.

Regional Associations means those regional or metropolitan tennis associations which are members of, or affiliated to, a Member Association.

Screening has the meaning as set out in clause 6.1.

Serious Sex Offence means an offence involving sexual activity or acts of indecency including but not limited to those acts listed in clause 6.6.

Sexual Harassment is unwelcome conduct of a sexual nature as defined in clauses 8.5 and 8.6. Sexual Harassment is an offence and will not be tolerated.

Tennis Australia (TA) means Tennis Australia Limited (ABN 61 006 281 125).

Vilification involves a person or organisation doing public acts to incite hatred towards, serious contempt for, or severe ridicule of others and is a form of Discrimination as defined in clause 8.16. Vilification is an offence and will not be tolerated.

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### *2. Who does this Policy Apply to?*

2.1 This Policy applies to the following individuals:

- (a) persons and administrators appointed or elected to boards of directors, executives and/or committees (including sub-committees), including office bearers such as presidents, vice-presidents, treasurers, secretaries and selectors of ATOs;
- (b) employees of ATOs;
- (c) officials appointed or elected by an ATO in relation to players and/or teams which represent such organisations including team management personnel such as coaches, managers, physiotherapists etc;
- (d) tennis coaches (including assistant coaches) who:
  - (i) are appointed and/or employed by an ATO (whether paid or unpaid) or;
  - (ii) are a Tennis Australia Coach Members ; or
  - (iii) are members of a coaching organisation e.g. Tennis Coaches Australia, ATPCA and internationally recognised coaching associations;
  - (iv) have an agreement (whether or not in writing) with an ATO to coach tennis at a facility owned or managed by, or affiliated with that ATO;
- (e) referees, umpires and other officials (eg lines persons) involved in the regulation of the game of tennis appointed by an ATO;
- (f) tennis players who:
  - (i) enter any tournament, competition, activity or event (including camps and training sessions) which are held or sanctioned by an ATO; or
  - (ii) are registered with a Regional Association and/or Affiliated Club as a player and/or member of that Regional Association and/or Affiliated Club:
- (g) any other person who is member of or affiliated to an ATO (including life members); and
- (h) any other person or entity (for example a parent/guardian, spectator or sponsor) who or which agrees, in writing, (whether on a ticket, entry form or otherwise) to be bound by this Policy.

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### *3. Code of Conduct*

- 3.1 Tennis Australia has developed and issued a Code of Conduct setting the parameters of expected behaviour of all the people participating in the activities of ATOs and to which they all agree to be bound. The Code is set out in Attachment A of this Policy. A Breach of the Code is not an offence under this Policy.
- 3.2 The Code of Conduct is designed to encourage individuals associated with ATOs to conduct themselves in a way which Tennis Australia considers is appropriate taking into account community expectations and standards governed by human rights legislation.

### *4. Procedural Obligations of ATO's*

- 4.1 All Member Associations of TA must:
- (a) adopt and comply with this Policy;
  - (b) recognise and enforce any penalty imposed under this Policy;
  - (c) publish, distribute and promote this Policy (and any amendments made to it from time to time) to their members, in the manner required by Tennis Australia and upon reasonable request make this Policy available for inspection, or copying;
  - (d) make such amendments to their constitution, rules or policies necessary for this Policy to be enforceable; and
  - (e) ensure that its members adopt the Policy thus imposing it on its members' members (e.g. a Member Association imposes the Policy on its member clubs and the clubs in turn impose it on their individual club members).
- 4.2 In addition TA and its Member Associations must:
- (a) appoint a Member Protection Officer to fulfil the functions set out in clauses 9, 10 and 11 of this Policy, and to publish and display the names and contact details of such person to their members; and
  - (b) establish a Disciplinary Tribunal in accordance with clause 11 of this Policy, to fulfil the functions set out in clauses 11 and 12.

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- 4.3 Affiliated Organisations, Member Affiliated Organisations, Regional Associations and Affiliated Clubs do not have to establish procedures for dealing with Complaints and Hearings under Part IV of this Policy. If they wish to do so, however, they must comply with the requirements of clause 4.2.
- 4.4 All procedures set out in this Policy shall follow the principles of Natural Justice.

### *5. Status of this Policy*

- 5.1 This Policy is issued by resolution of the Board of Tennis Australia under article 18 of the Tennis Australia constitution.
- 5.2 This Policy may be amended from time to time by the Board of Tennis Australia.



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## Part II - Child Protection

## TA Member Protection Policy

### 6. Screening

6.1 For the purposes of this Policy, Screening shall mean:

- (a) Checking referees - including making verbal or written inquiries of the person's nominated referees (preferably at least two) as to the person's suitability for the role and their suitability for involvement with children under 18 years of age;
- (b) Interviewing the person - including questioning the person as to their suitability for the role and their suitability for involvement with children under 18 years of age; and
- (c) Obtaining a Police Check – investigating to see whether the person has any previous criminal convictions.

Screening under this policy is not a replacement for any other procedure required by law. Refer to Attachment C.

6.2 If a person is required to be screened under a State or Territory law which has an equivalent or higher standard than that set under this Policy, (refer to Attachment C) the requirement to screen under this process outlined in this clause 6 need not be followed provided the ATO sights the original documentation evidencing that the Preferred Appointee or Existing Appointee has undergone the State or Territory screening and is appropriate to work with children under 18 years of age.

6.3 Screening is mandatory by ATOs for Preferred Appointees and Existing Appointees in the following types of roles:

- (a) persons who are appointed or seeking appointment (whether employed, contracted or otherwise) to work with children under 18 years of age, as coaches, team managers, tournament directors; and umpires (paid or volunteers); and
- (b) persons appointed or seeking appointment to a role in which they are likely to have unsupervised contact with children under 18 years of age.

6.4 It is highly recommended, though not mandatory, that ATOs also screen Preferred Appointees and Existing Appointees for any role likely to have contact with children under 18 years of age but where such contact is supervised at all times by another adult.

6.5 If the Police Check or requirements as set out in clause 6.2 of this Policy reveals that the person has been found guilty of any criminal offence, whether or not a conviction is recorded, the following requirements apply:

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- (a) regardless of when the offence occurred, if it involved an offence of violence, abuse or assault against a child, murder or a Serious Sex Offence (as defined in clause 6.6) then:
    - (i) in the case of a Preferred Appointee, the person must not be appointed.
    - (ii) in the case of an Existing Appointee, subject to obtaining appropriate legal advice beforehand the appointment of the person should be ended.
  - (b) If the offence is one other than an offence identified in clause 6.5(a) then:
    - (i) the Preferred Appointee may, at the discretion of the relevant ATO, be appointed, subject to satisfaction of any other criteria for the role;
    - (ii) an Existing Appointee may continue in his/her role subject to any modifications to his/her duties that the relevant ATO may in its complete discretion make.
- 6.6 Under this Policy, "Serious Sex Offence" means an offence involving sexual activity or acts of indecency including but not limited to:
- (a) Rape;
  - (b) Indecent assault;
  - (c) Sexual assault;
  - (d) Assault with intent to have sexual intercourse;
  - (e) Incest;
  - (f) Sexual penetration of a child under the age of 16;
  - (g) Indecent act with a child under the age of 16;
  - (h) Sexual relationship with a child under the age of 16;
  - (i) Sexual offences against people with impaired mental functioning;
  - (j) Abduction and detention;
  - (k) Procuring sexual penetration by threats or fraud;
  - (l) Procuring sexual penetration of a child under the age of 16;
  - (m) Bestiality;
  - (n) Soliciting acts of sexual penetration or indecent acts;
  - (o) Promoting or engaging in acts of child prostitution;
  - (p) Obtaining benefits from child prostitution;
  - (q) Possession of child pornography; and
  - (r) Publishing child pornography or indecent articles.
- 6.7 All Existing Appointees and Preferred Appointees for roles of the type set out in clause 6.3 must agree to a Police Check. Subject to clause 6.2 the Police Check must be obtained prior to the appointment of a Preferred Appointee and immediately for Existing Appointees. A Police Check

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evidenced by original documentation must be provided to the ATO and must then be obtained every three years.

- 6.8 If a Preferred Appointee or Existing Appointee is not willing to agree to the Screening, the ATO:
- (a) in the case of a Preferred Appointee, shall not appoint that person to the role concerned;
  - (b) in the case of an Existing Appointee, shall take steps to transfer the person to another role which is not set out in clause 6.3. If no appropriate alternative role exists, subject to obtaining appropriate legal advice beforehand, the appointment of the person should be ended.
- 6.9 All information obtained during Screening, including the Police Check, must be kept strictly confidential by the ATO which seeks it. Disclosure of such information should be limited to the legal advisers and the persons within an ATO who have been delegated the task of Screening or making the appointment. All such information must be returned to any Potential Appointees not appointed to the role or destroyed, unless that person agrees to that information or a part of it being retained by the ATO.
- 6.10 If any successful Preferred Appointee or Existing Appointee is found guilty of any criminal offence subsequent to their initial Police Check, they are required to provide immediate, written notification of this guilty finding to the Member Protection Officer (or, in their absence, their nominee) of the ATO that appointed them.

## *7. Declaration*

- 7.1 In addition to Screening, another mechanism designed to minimise the chances of inappropriate behaviour occurring is mandatory Member Protection Declarations of all Preferred Appointees and Existing Appointees appointed to a role set out in clause 7.2.
- 7.2 It is mandatory for an ATO to obtain a Member Protection Declaration (Attachment B) from Preferred Appointees and Existing Appointees in the following types of roles:
- (a) persons who are appointed or seeking appointment (whether employed, contracted or otherwise) to work with children under 18 years of age, as coaches, team managers, tournament directors and Officials (paid or volunteer); and
  - (b) persons appointed or seeking appointment to a role in which they are likely to have unsupervised contact with children under 18 years of age.

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- 7.3 If a Member Protection Declaration reveals that a person has something to disclose, the relevant ATO will:
- (a) provide an opportunity for the person to respond/provide an explanation; and
  - (b) make an assessment as to whether the person may pose a risk to or be unsuitable to work with children under the age of 18 years having regard to clause 6.5.
- 7.4 If unsatisfied that a Preferred Appointee or Existing Appointee is appropriate to hold a position under clause 7.2, then the ATO will:
- (a) in the case of a Preferred Appointee, not appoint that person to the role concerned;
  - (b) in the case of an Existing Appointee, take steps to transfer the person to another role which is not set out in clause 7.2. If no appropriate alternative role exists, subject to obtaining appropriate legal advice beforehand, the appointment of the person should be ended.

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## Part III – Harassment, Abuse, Discrimination and Social Networking

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### *8. Harassment, Abuse and Discrimination*

- 8.1 Harassment, Abuse, Discrimination and Vilification is unlawful and is prohibited and an offence under this Policy.
- 8.2 Harassment is any unwelcome behaviour which is offensive, abusive, belittling or threatening to a person. It can be express or implied, physical, verbal or non-verbal.
- 8.3 Whether or not the behaviour is Harassment is determined from the point of view of the person receiving the behaviour, assessed objectively. That is, it must be behaviour that a reasonable person with those characteristics would find unwelcome. It does not matter whether or not the person harassing intended to offend or not.
- 8.4 Harassment includes:
- (a) Sexual Harassment (see clauses 8.5 to 8.7 below);
  - (b) Abuse (see clauses 8.8 to 8.10 below); and
  - (c) Discrimination, including Vilification (see clauses 8.12 to 8.17).
- 8.5 Sexual Harassment means:
- (a) an unwelcome sexual advance; or
  - (b) an unwelcome request for sexual favours; or
  - (c) unwelcome conduct of a sexual nature (including oral or written statements of a sexual nature),
- in circumstances where a reasonable person would have anticipated that the person receiving the behaviour would be offended, humiliated or intimidated.
- 8.6 Examples of Sexual Harassment may include:
- (a) Uninvited touching, kissing, embracing, massaging;
  - (b) Staring, leering, ogling;
  - (c) Smutty jokes and comments;
  - (d) Persistent or intrusive questions about people's private lives;
  - (e) Repeated invitations to go out, especially after prior refusal;
  - (f) Unwanted sexual propositions;
  - (g) The use of promises or threats to coerce someone into sexual activity;
  - (h) The display of sexually explicit material e.g. internet use, computer screen savers, calendars, posters;

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- (i) Getting undressed in front of others of the opposite sex;
- (j) Invading the privacy of persons while showering or toileting;
- (k) Photographing others while undressing, showering or toileting;
- (l) The use of sexually offensive emails, letters, faxes, notes; and
- (m) Sexual insults and name-calling.

8.7 Sexual Harassment may be a criminal offence, for example indecent assault, rape, sex with a minor, photography including "upskirting", obscene telephone calls or letters. If you suspect that a criminal offence may have been committed you should notify the police and/or seek legal advice.

8.8 Abuse is a form of Harassment. It includes:

- (a) physical abuse (e.g. assault);
- (b) emotional abuse, (e.g. blackmail, repeated requests or demands);
- (c) neglect (i.e. failure to provide the basic physical and emotional necessities of life);
- (d) abuse of power which the harasser holds over the harassed. For example relationships that involve a power disparity such as a coach-player, manager-player, employer-employee, doctor-patient have the potential for abuse of that power. People in such positions of power need to be particularly wary not to exploit that power; and
- (e) Child Abuse

8.9 Examples of abusive behaviour include:

- (a) Bullying and humiliation of players by coaches;
- (b) Abuse and insults directed by players or parents at opposing participants;
- (c) Abuse of Officials by players, coaches or parents;
- (d) Bullying, humiliation and physical intimidation of other players in competition; and
- (e) Practical jokes which cause embarrassment or which endanger the safety of others.

Some forms of abuse may constitute a criminal offence for example assault. If you suspect that a criminal offence may have been committed you should immediately notify the police.

8.10 Examples of Child Abuse include:

- (a) Physical abuse by hurting a child or a child's development (e.g. hitting, shaking or other physical harm; giving a child alcohol or drugs; or training that exceeds the child's development or maturity);



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- (b) Sexual abuse by adults or other children where a child is encouraged or forced to watch or engage in sexual activity or where a child is subject to any other inappropriate conduct of a sexual nature (e.g. sexual intercourse, masturbation, oral sex, pornography including child pornography or inappropriate touching or conversations);
  - (c) Emotional abuse by ill-treating a child (e.g. humiliation, taunting, sarcasm, yelling, negative criticism, name calling, ignoring or placing unrealistic expectations on a child); and
  - (d) Neglect (e.g. failing to give food, water, shelter or clothing or to protect a child from danger or foreseeable risk of harm or injury).
- 8.10 If you suspect or have been provided with information that indicates Child Abuse has or may have occurred then you must notify the police and/or the relevant government agency (See Attachment D).
- 8.11 Where an allegation of Child Abuse has been reported, the Member Protection Officer must immediately report any incident to the police and other relevant government agency.
- (a) If the allegation involves a child at risk of harm, the incident should immediately be reported to the police or relevant government agency. The Member Protection Officer may need to report to both the police and the relevant government agency.
  - (b) The relevant State or Territory authority must be contacted for advice if there is any doubt about whether the complaint should be reported.
  - (c) If the child's parent/s are suspected of committing the abuse, report the allegation to the police and/or relevant government agency.
- 8.12 Discrimination is treating or proposing to treat a person less favourably than someone else in certain areas of public life on the basis of an attribute or personal characteristic. Requesting, assisting, instructing, inducing or encouraging another person to engage in Discrimination is also considered Discrimination.
- 8.13 The personal attributes or characteristics against which a person may be discriminated are:
- (a) Age;
  - (b) Disability – this includes loss of bodily function (e.g. deaf or blind), presence of disease (e.g. hepatitis or HIV), loss of part of the body, disfigurement, malfunction of part of the body, psychological disease, intellectual disability;

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- (c) Marital status – this covers whether the person is single, married, de facto, married but living separately from their spouse, divorced, or widowed;
- (d) Family/Carer status - this includes whether the person is a step parent, adoptive parent, foster parent or guardian and also includes whether the person is childless or is a carer (e.g. of children, or other dependents);
- (e) Gender Identity and Transgender status;
- (f) Homosexuality and sexual orientation;
- (g) Irrelevant medical record;
- (h) Irrelevant criminal record;
- (i) Physical features – this includes a person weight, size, height and other physical features;
- (j) Political belief or activity;
- (k) Pregnancy and breastfeeding– this includes whether the person has or supposedly has the signs or symptoms of pregnancy (e.g. morning sickness);
- (l) Race;
- (m) Religious beliefs or activity; and
- (n) Sex or gender.

8.14 Discrimination also includes victimisation. This occurs where a person suffers or is threatened with any detriment or unfair treatment because that person has or intends to pursue their rights under anti-discrimination legislation or this Policy.

8.15 Exemptions under the Federal or State legislation may permit certain forms of Discrimination. These may include Discrimination:

- (a) in relation to the selection of a team for competition or entry to a competition, where the strength, stamina and physique of the competitor is relevant; or
- (b) if it is necessary to protect the health and safety or property of any person or of the public generally.

ATOs are strongly advised to obtain independent legal advice if such Discrimination is considered.

8.16 Vilification is a form of Discrimination and involves a person inciting hatred towards, serious contempt for, or severe ridicule of, a person or group of persons by a public act, including any form of communication to the public and any conduct observable by the public. Vilification is an offence under this Policy where it is based on any of the attributes or characteristics set out in clause 8.13.

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- 8.17 Some forms of Vilification may constitute a criminal offence, for example where harm is threatened. If you suspect that a criminal offence may have been committed you should notify the police and/or seek legal advice.

### *8A. Social Networking*

- 8A.1 Social Networking refers to any interactive website or technology that enables persons to communicate and/or share content via the internet. This includes social networking websites such as Facebook and Twitter.
- 8A.2 Persons bound by this policy must conduct themselves appropriately when using social networking sites to share information related to Tennis.
- 8A.3 In particular, social media activity including, but not limited to, postings, blogs, status updates and tweets:
- (a) must not contain material which is, or has the potential to be, offensive, aggressive, defamatory, threatening, discriminatory, obscene, profane, harassing, embarrassing, intimidating, sexually explicit, bullying, hateful, racist, sexist or otherwise inappropriate;
  - (b) must not contain material which is inaccurate, misleading or fraudulent;
  - (c) must not contain material which is in breach of laws, court orders, undertakings or contracts;
  - (d) should respect and maintain the privacy of others; and
  - (e) should promote Tennis in a positive way.

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## Part IV - Complaints Procedure

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### 9. Complaints

- 9.1 If any person considers that this Policy has been breached they may make a complaint ("Complaint").
- 9.2 A Complaint must be in writing and received by the relevant authority as outlined in clause 9.3 within 14 days of the alleged breach, however a person may provide information verbally during an Inquiry/Investigation under clause 10.1. The Recipient of a Complaint in its absolute discretion, may extend or waive the requirement that a Complaint be received within 14 days of the alleged breach where the Recipient is of the reasonable belief that the circumstances warrant it, giving consideration to the nature of the Complaint and the age of the Complainant at the time of the alleged breach.
- 9.3 A Complaint must be made to either:
- (a) a Member Protection Officer of an ATO (if any) of which the person is a member, or if the person is not a member of any ATO then to the ATO where the event or activity giving rise to a complaint is held, or incident occurred ("Relevant ATO"), if that ATO has established procedures for dealing with Complaints in accordance with clause 4.2; or
  - (b) the President, or in their absence, the nominee of the Relevant ATO.
- 9.4 Where the Complaint is referred to the Relevant ATO and that ATO has not established a procedure for dealing with Complaints in accordance with clause 4.2 of this Policy then the Complaint should be referred to the next highest ATO having such a complaints procedure.
- 9.5 If a Complaint is received, then the person listed under clause 9.3 (Recipient) must:
- (a) Ask the complainant whether he or she wishes them to:
    - (i) listen and advise the complainant about what their options are; and/or
    - (ii) act as a mediator between the complainant and the alleged offender to try and resolve the Complaint by agreement; or
    - (iii) refer the Complaint to the Relevant ATO for a hearing to be held under clause 11.
  - (b) Having determined the Complainant's wishes in accordance with clause 9.5(a), the Recipient shall:
    - (i) act in accordance with the complainant's wishes;

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- (ii) keep the matter confidential and only discuss it with people the complainant has authorised them to speak to about the Complaint or as permitted under this Policy; and
  - (iii) inform the relevant governmental authority, if required by law.
- 9.6 If the complainant wishes the Recipient to act as a mediator the Member Protection Officer shall:
  - (a) immediately notify the alleged offender, in writing, that a Complaint has been made and provide them with a copy of the written Complaint; and
  - (b) attempt to mediate a resolution between the complainant and the alleged offender.
- 9.7 If a resolution is reached at mediation no further action may be taken under this Policy (except by agreement between the parties). This does not prevent action being taken under State or Federal legislation or criminal or civil law.
- 9.8 If the Complaint is not resolved at the mediation, or at the complainant's request under clause 9.5, the Recipient shall refer the matter to the Disciplinary Tribunal of the ATO which appointed him/her.

### *10. Inquiries/Investigation*

- 10.1 If the President, their nominee, or a Member Protection Officer of an ATO receives information which suggests on reasonable grounds that this Policy may have been breached, then they shall:
  - (a) make inquiries about the information to ascertain whether or not it appears to them that, prima facie, there has been a breach of this Policy; and
  - (b) if it appears that there has been a breach of this Policy, refer the matter to the relevant person listed in clause 9.3 and follow the procedures set out in clauses 9.4 to 9.8 insofar as they are applicable as if a Complaint had been received.
- 10.2 The Recipient may request copies of relevant documents and all persons bound by this Policy shall comply with all reasonable requests by the Recipient and co-operate in the conduct of the Investigation.

### *11. Hearings*

- 11.1 On referral of a Complaint to the Recipient for Hearing under clause 9.5(a)(iii) or 9.8, they shall as soon as possible:
  - (a) Determine the composition of the Disciplinary Tribunal, as detailed in clause 11.2;

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- (b) Send to the alleged offender:
  - (i) a notice setting out the alleged offence including details of when and where it is alleged to have occurred, and setting out the date, time and place for the hearing of the alleged offence which shall be as soon as reasonably practicable after receipt of the Complaint or information;
  - (ii) a copy of the Complaint or the information received if in writing; and
  - (iii) a Notice of Intent to Attend, requiring the alleged offender to advise the Disciplinary Tribunal of their intention to attend the hearing.  
("Collectively referred to as Notice of Alleged Offence");
- (c) Send to the complainant(s) and the Chairperson of the Disciplinary Tribunal a copy of the Notice of Alleged Offence.
- (d) Send a Notice to Attend to any witnesses required to attend the hearing for the purpose of giving evidence.

11.2 The Disciplinary Tribunal for each hearing shall be appointed by the Board of Directors (however described) of the Relevant ATO and shall be comprised of the following persons:

- (a) a lawyer or, if after reasonable attempts have been made to obtain one without success, a person with considerable previous experience in the legal aspects of a disciplinary tribunal (who shall be the Chairperson);
- (b) a person with a thorough knowledge of tennis; and
- (c) one person with experience and skills suitable to the function of the Disciplinary Tribunal.

However the following cannot be Disciplinary Tribunal members: a person who is a member of the Board of Directors (however described) of the ATO which appoints the Disciplinary Tribunal; or a person who would, by reason of their relationship with the complainant or the alleged offender, or otherwise, be reasonably considered to be other than impartial.

11.3 Frivolous, vexatious or malicious Complaints

- (a) If the alleged offender considers that the Complaint is frivolous, vexatious or malicious, the alleged offender must notify the Recipient in writing within 48 hours of receipt of the Notice of Alleged Offence. On receipt of such notice, the Member Protection Officer must refer it to the Chairperson, who, sitting alone, shall first determine that issue and advise the parties of his or her determination. This determination shall be made as soon as

## *TA Member Protection Policy*

practicable and in whatever manner the Chairperson considers appropriate in the circumstances, provided that he or she does so in accordance with the principles of Natural Justice.

- (b) The decision of the Chairperson under this clause 11.3 may be appealed within 48 hours of notification of the determination to the relevant appeal body under clause 13.
- 11.4 The Disciplinary Tribunal shall hear and determine the alleged offence in whatever manner it considers appropriate in the circumstances (including by way of teleconference, video conference or otherwise) provided that it does so in accordance with the principles of Natural Justice. The purpose of the hearing shall be to determine whether the alleged offender is in breach of this Policy. The Disciplinary Tribunal may not discuss and consider any prior offences at the Hearing. If the Disciplinary Tribunal finds the Complaint proven on the balance of probabilities, it may impose any one or more of the penalties set out in clause 12.
- 11.5 The alleged offender and any witnesses sent a Notice to Attend will be required to attend the hearing before the Disciplinary Tribunal at the time and place notified to them (however it is conducted). If within 30 minutes of the notified time for commencement of the hearing, the alleged offender or any witness is not present, the Disciplinary Tribunal may elect to conduct the hearing in the absence of that person or adjourn the hearing and reconvene at a later date advised to the alleged offender and witnesses.
- 11.6 The parties to the hearing shall include the complainant, the alleged offender, and the Relevant ATO represented by an appointed advocate, whose role shall be to assist the Disciplinary Tribunal by presenting evidence, including material facts, and to make any submissions on behalf of the ATO on the appropriateness of penalty.
- 11.7 If at any stage the Disciplinary Tribunal considers that the safety and welfare of the complainant or others is in jeopardy, it may order that the alleged offender be:
- (a) suspended from any role they hold within relevant ATOs; and/or
  - (b) banned from any event or activities held by or sanctioned by relevant ATOs; and/or
  - (c) required not to contact or in any way associate with the complainant or other person to whom the alleged offence relates pending the determination of the Complaint.
- 11.8 There is no right of appeal against an order of the Disciplinary Tribunal under clause 11.7.



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- 11.9 Any party to the hearing may be represented at the hearing by a person who is not a legal practitioner save that the Disciplinary Tribunal may give leave for a party to be legally represented where it considers it is necessary in order to do justice to all the parties.
- 11.10 Each party to the hearing shall bear their own costs in relation to the hearing.
- 11.11 The Disciplinary Tribunal shall give its decision as soon as practicable after the hearing and will deliver a statement of its written reasons (together with information regarding the appeal process) to the following:
- (a) the President of the ATO which established the Disciplinary Tribunal;
  - (b) the Complainant;
  - (c) the alleged offender; and
  - (d) any other party represented at the hearing.
- 11.12 Each member of a Disciplinary Tribunal established under this Policy shall be indemnified by the ATO which appointed them, from any claim or action for loss, damages, or costs made against them arising out of or in connection with their function as a member of the Disciplinary Tribunal under this Policy.
- 11.13 Except as otherwise provided in this Policy, all members of a Disciplinary Tribunal and others present at the Hearing shall keep all matters relating to the hearing, other than the decision, including but not limited to the nature of the Complaint, information obtained before and during the hearing, confidential.

## *12. Penalties*

- 12.1 If the Disciplinary Tribunal considers that a person, to whom this Policy applies, has breached this Policy, it may impose any one or more of the following penalties:
- (e) direct that the Offender attend counselling to address their conduct;
  - (f) recommend that relevant ATOs terminate the appointment of any role which the Offender holds with those Organisations;
  - (g) impose a monetary fine for an amount determined by the Disciplinary Tribunal;
  - (h) impose a warning;
  - (i) in the case of a Coach, direct the relevant Affiliated Organisation and/or the relevant Member Affiliated Organisation and/or coaching organisation to suspend or cancel such accreditation or affiliation for a period or indefinitely;

## *TA Member Protection Policy*

- (j) withdraw any ranking points, awards, placings, records won in any tournaments, activities or events held or sanctioned by an ATO;
  - (k) direct the Offender to repay all or part of any financial assistance (excluding any fee for service, wages or expenses) given to them by the Australian Sports Commission, any Federal or State funding agency, the Australian Olympic Committee, the Commonwealth Games Committee, or an ATO or any other organisation which has provided funding to the Offender;
  - (l) suspend the Offender from competition for such period as the Disciplinary Tribunals sees fit;
  - (m) impose a fully or partially suspended sentence on the Offender with a period of good behaviour; and
  - (n) any other such penalty that the Disciplinary Tribunal considers appropriate.
- 12.2 If an Offender commits a second or subsequent offence under this Policy, then the Disciplinary Tribunal shall have regard to the previous offence, the penalty imposed and any other relevant factors, in imposing a penalty for the second or subsequent offence.
- 12.3 If a penalty is imposed by the Disciplinary Tribunal under clause 12.1, the President (or nominee) of the ATO that established the Disciplinary Tribunal shall, as soon as possible, notify the ATO of which the Offender is a member.
- 12.4 Every organisation required to adopt this Policy shall recognise and enforce any decision and penalty imposed by a Disciplinary Tribunal under this Policy.

### *13. Appeals*

- 13.1 A party to a hearing held under clause 11 may appeal a decision (Appellant) of a Disciplinary Tribunal (Original Tribunal) only in circumstances where:
- (a) the Appellant's ability to earn their primary source of income is substantially affected by the decision of the Original Tribunal; and / or
  - (b) new evidence is available that was unable to be presented to the Original Tribunal and which, if accepted would on the balance of probabilities, be likely to have affected the decision of the Original Tribunal; and / or
  - (c) an alleged breach of Natural Justice. Natural Justice incorporates the following principles:
    - (i) a person who is the subject of a complaint must be fully informed of the allegations against them;

## *TA Member Protection Policy*

- (ii) 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;
  - (iii) all parties need to be heard and all relevant submissions considered; and
  - (iv) the decision maker/s must be unbiased, fair and just.
  
- 13.2 Subject to clause 13.3, an appeal shall be made to the Disciplinary Tribunal established by the next highest ATO ("Appeal Body").
  
- 13.3 An appeal against a decision of a Disciplinary Tribunal established by Tennis Australia, shall be made to the appeal division of the Court of Arbitration for Sport (Oceania Registry) ("CAS") (also referred to as the "Appeal Body").
  
- 13.4 There is only one right of appeal following the decision of the Original Tribunal. Any appeal must be solely and exclusively resolved by the Appeal Body and the decision of such Appeal Body is final and binding on the parties. Further, no party to such appeal may institute or maintain proceedings in any court or tribunal other than the relevant Appeal Body. (NOTE: This provision does not prevent any person or organisation taking action under any State or Federal legislation for Harassment or any criminal or civil offence.)
  
- 13.5 The process for such appeal is as follows:
  - (a) the Appellant shall within 72 hours of the Original Tribunal delivering its decision:
    - (i) notify the Member Protection Officer in writing of the next highest ATO of the Appellant's intention to appeal (Notice of Intention to Appeal); or
    - (ii) in the case of an appeal to CAS, complete and file an application to appeal with CAS in accordance with the Code of Sports Related Arbitration;
  - (b) for all appeals, except those to CAS, as soon as possible after receipt of the Notice of Intention to Appeal, the Member Protection Officer of the next highest ATO shall:
    - (i) in the case of an appeal under clause 13.1, refer the matter to the Chairperson of the Appeal Body to determine in his or her sole discretion whether the Appellant has satisfied the criteria for an appeal under clause 13.1. If satisfied the Chairperson shall direct the Disciplinary Officer to convene a Disciplinary Tribunal to hear and determine the appeal;
    - (ii) in the case of an appeal under clause 11.3(b), the Chairperson shall direct the Member Protection Officer to convene a Disciplinary Tribunal to hear and determine the appeal;

## *TA Member Protection Policy*

- (c) the Appeal Body shall comprise of persons who comply with clause 11.2 of this Policy and were not members of the Original Tribunal; and
- (d) within 5 days of lodging the Notice of Intention to Appeal, (or such shorter time as determined by the Appeal Body if there is urgency) the Appellant shall:
  - (i) pay an appeal fee of \$1000 (including GST) to the Appeal Body, or in the case of an appeal to CAS the relevant fee which shall be as per the Code of Sports-related Arbitration applicable to CAS; and
  - (ii) submit to the Chairperson of the Appeal Body or CAS (as the case may be) the grounds of the appeal in writing, copies of which will be provided by the Disciplinary Officer to the complainant, the President of the organisation which established the Original Tribunal and the President of the next highest ATO.

If either of the requirements in sub-clause (a) or (d) are not met by the due time the appeal shall be deemed to be withdrawn.

- 13.6 The appeal fee is refundable only at the discretion of the Appeal Body and in circumstances where the Appellant is successful in overturning the Original Tribunal's decision or reducing the penalty imposed by the Original Tribunal. The Appeal Body may withhold all or part of the appeal fee to cover the costs of the appeal.
- 13.7 (a) on completion of the procedures in clause 13.5 (a) to (c) above, the Chairperson of the Appeal Body shall determine a place, time and date for the hearing of the appeal and as soon as possible thereafter notify all parties to the appeal in writing of such details; and
- (b) the procedure for the appeal shall be the same as the procedure for the Original Tribunal set out in clause 11 except where the Appeal Body is CAS, in which case the Code of Sports-related Arbitration shall apply.
- 13.8 Upon hearing the appeal, the Appeal Body may do any one or more of the following:
- (a) dismiss the appeal;
  - (b) grant the appeal;
  - (c) impose any of the penalties set out in clause 12; and/or
  - (d) reduce, increase or otherwise vary any penalty imposed by the Original Tribunal.
- 13.9 The Appeal Body has no power to award costs and each party shall bear their own costs in relation to any appeal.

## *TA Member Protection Policy*

- 13.10 All members of an Appeal Body and others present at the Appeal hearing shall keep all matters relating to the hearing confidential.

## TA Member Protection Policy

### Attachment A

#### *Tennis Australia General Code of Conduct*

As a member of *Tennis Australia* and Australian Tennis Organisations or a person required to comply with Tennis Australia's Member Protection Policy, you must meet the following requirements in regard to your conduct during any activity held or sanctioned by Tennis Australia and an Australian Tennis Organisation and in any role you hold within Tennis Australia or an Australian Tennis Organisation.

1. Respect the rights, dignity and worth of others.
2. Be fair, considerate and honest in all dealing with others.
3. Be professional in, and accept responsibility for, your actions.
4. Make a commitment to providing quality service.
5. Be aware of, and maintain an uncompromising adherence to, Tennis Australia's standards, rules, regulations and policies.
6. Operate within the rules of the sport including national and international guidelines which govern Tennis Australia and Australian Tennis Organisations.
7. Do not use your involvement with Tennis Australia or an Australian Tennis Organisation to promote your own beliefs, behaviours or practices where these are inconsistent with those of Tennis Australia and the Australian Tennis Organisations.
8. Demonstrate a high degree of individual responsibility especially when dealing with persons under 18 years of age, as your words and actions are an example.
9. Avoid unaccompanied and unobserved activities with persons under 18 years of age, wherever possible.
10. Refrain from any form of harassment of others.
11. Refrain from any behaviour that may bring *Tennis Australia*, and Australian Tennis Organisations into disrepute.
12. Provide a safe environment for the conduct of the activity.
13. Show concern and caution towards others who may be sick or injured.
14. Be a positive role model.

## TA Member Protection Policy

### Attachment B

#### Member Protection Declaration

Tennis Australia has a duty of care to its members and to the general public who interact with its employees, volunteers, members and others involved with *Tennis Australia's* activities. As part of this duty of care and as a requirement of *Tennis Australia's* Member Protection Policy, Tennis Australia and Australian Tennis Organisations must inquire into the background of:

- § persons who are appointed or seeking appointment with children under 18 years of age (whether employed, contracted or otherwise) as a coach, team manager, tournament director or umpire; (paid or volunteer) and
- § persons appointed or seeking appointment to a role in which they are likely to have individual and unsupervised contact with players under 18 years of age

I, ..... (name)

..... (address) Date of Birth ...../...../.....

**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, or related to, violence, child abuse, serious sexual offences or offences related to children.
3. I have not had any disciplinary proceedings brought against me by an employer, sporting organisation or similar body involving child abuse, sexual misconduct or harassment, acts of violence, intimidation or other forms of harassment.
4. To my knowledge there is no other matter that the Australian Tennis Organisation may consider to constitute a risk to its members, employees, volunteers, athletes or reputation by engaging me.
5. I will notify the President or appointed person within the Australian Tennis Organisation engaging me immediately upon becoming aware that any of the matters set out in clauses [1 to 4] above has changed for whatever reason.

Declared in the State/Territory of: .....

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

**OR**

I, ..... (name)

of .....(address) Date of Birth ...../...../.....

**SINCERELY** declare:

That, I have the following to disclose [please provide details of the offence for which you are unable to make the above declaration, including the nature of the offence, when it was conducted and any disciplinary action or penalty imposed as a result of the offence]

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

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

Name: .....

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

## TA Member Protection Policy

### Attachment C

#### State and Territory Legislation Overview - Working With Children

Working with Children Check requirements vary across Australia. [Fact Sheets](#) for each state and territory are available on the Play by the Rules website: [www.playbytherules.net](http://www.playbytherules.net)

Detailed information, including the forms required to complete a Working with Children Check, are available from the relevant agencies in each state and territory.

##### Australian Capital Territory

Contact the Office of Regulatory Services

Website: [www.ors.act.gov.au/community/working\\_with\\_vulnerable\\_people](http://www.ors.act.gov.au/community/working_with_vulnerable_people)

Phone: 02 6207 3000

##### New South Wales

Contact the Office of the Children's Guardian

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

Phone: 02 9286 7276

##### Northern Territory

Contact the Northern Territory Screening Authority

Website: [www.workingwithchildren.nt.gov.au](http://www.workingwithchildren.nt.gov.au)

Phone: 1800 SAFE NT (1800 723 368)

##### Queensland

Contact the [Public Safety Business Agency](#) about the "Blue Card" system.

Website: [www.cycopcg.qld.gov.au](http://www.cycopcg.qld.gov.au)

Phone: 1800 113 611

##### South Australia

Contact the Department for Education and Child Development for information

Website: [www.families.sa.gov.au/childsafes](http://www.families.sa.gov.au/childsafes)

Phone: 08 8463 6468.

National Police Check: [www.police.sa.gov.au/services-and-events/apply-for-a-police-record-check](http://www.police.sa.gov.au/services-and-events/apply-for-a-police-record-check)

DCSI Child Related Work Screening: <http://www.dcsi.sa.gov.au/services/screening>

##### Tasmania

Contact the Department of Justice about the working with children registration system that is being phased in

Website: [www.justice.tas.gov.au/working\\_with\\_children](http://www.justice.tas.gov.au/working_with_children)

Phone: 1300 13 55 13

##### Victoria

Contact the Department of Justice

Website: [www.workingwithchildren.vic.gov.au](http://www.workingwithchildren.vic.gov.au)

Phone: 1300 652 879

##### Western Australia

Contact the Department for Child Protection

Website: [www.checkwwc.wa.gov.au](http://www.checkwwc.wa.gov.au)

Phone: 1800 883 979



## *TA Member Protection Policy*

### *Travelling to other states or territories*

It is important to remember that when travelling to other states or territories, representatives of sporting organisations must comply with the legislative requirements of that particular state or territory.

In certain jurisdictions, temporary, time limited exemptions from working with children checks may be available for interstate visitors with a Working with Children Check in their home state.

The laws providing interstate exemptions are not consistent across Australia.

If an employee or volunteer for your organisation is travelling interstate to do work that would normally require a working for children check, you will need to check the relevant requirements of that state or territory.

## TA Member Protection Policy

### Attachment D

#### Information for Reporting Allegations of Child Abuse

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

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

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

#### Step 1: Receive the allegation

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

DO	DON'T
Make sure you are clear about what the child has told you	Do not challenge or undermine the child
Reassure the child that what has occurred is not his or her fault	Do not seek detailed information, ask leading questions or offer an opinion.
Explain that other people may need to be told in order to stop what is happening.	Do not discuss the details with any person other than those detailed in these procedures.
Promptly and accurately record the discussion in writing.	Do not contact the alleged offender.

#### Step 2: Report the allegation

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

## TA Member Protection Policy

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

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

### Step 4: Take internal action

- Up to four different investigations could be undertaken to examine allegations that are made against a person to whom this policy applies, including:
  - a criminal investigation (conducted by the police)
  - a child protection investigation (conducted by the relevant child protection agency)
  - a disciplinary or misconduct inquiry/investigation (conducted by a Member Association and/or Tennis Australia).
- Regardless of the findings of the police and/or child protection agency investigations, the ATO will assess the allegations to decide whether the alleged offender should return to his or her position, be dismissed, be banned or face any other disciplinary action.
- Member Protection Officer of the ATO will consider all information relevant to the matter – including any findings made by the police, the child protection authority and/or court – and then set out a finding, recommend actions and the rationale for those actions.
- If disciplinary action is recommended, we will follow the procedures set out in our Member Protection Policy.
- We will provide the relevant government agency with a report of any disciplinary action we take, where this is required.

## TA Member Protection Policy

### CONTACT DETAILS FOR ADVICE OR TO REPORT AN ALLEGATION OF CHILD ABUSE

Australian Capital Territory	
ACT Police Non-urgent police assistance Ph: 131 444 <a href="http://www.afp.gov.au">www.afp.gov.au</a>	Office for Children, Youth and Family Services <a href="http://www.dhcs.act.gov.au/ocyfs/services/care_and_protection">www.dhcs.act.gov.au/ocyfs/services/care_and_protection</a> Ph: 1300 556 729
New South Wales	
New South Wales Police Non-urgent police assistance Ph: 131 444 <a href="http://www.police.nsw.gov.au">www.police.nsw.gov.au</a>	Department of Family and Community Services <a href="http://www.community.nsw.gov.au">www.community.nsw.gov.au</a> Ph: 132 111
Northern Territory	
Northern Territory Police Non-urgent police assistance Ph: 131 444 <a href="http://www.pfes.nt.gov.au">www.pfes.nt.gov.au</a>	Department of Children and Families <a href="http://www.childrenandfamilies.nt.gov.au">www.childrenandfamilies.nt.gov.au</a> Ph: 1800 700 250
Queensland	
Queensland Police Non-urgent police assistance Ph: 131 444 <a href="http://www.police.qld.gov.au">www.police.qld.gov.au</a>	Department of Communities, Child Safety and Disability Services <a href="http://www.communities.qld.gov.au/childsafety">www.communities.qld.gov.au/childsafety</a> Ph: 1800 811 810
South Australia	
South Australia Police Non-urgent police assistance Ph: 131 444 <a href="http://www.sapolice.sa.gov.au">www.sapolice.sa.gov.au</a>	Department for Education and Child Development <a href="http://www.families.sa.gov.au/childsafe">www.families.sa.gov.au/childsafe</a> Ph: 131 478
Tasmania	
Tasmania Police Non-urgent police assistance Ph: 131 444 <a href="http://www.police.tas.gov.au">www.police.tas.gov.au</a>	Department of Health and Human Services <a href="http://www.dhhs.tas.gov.au/children">www.dhhs.tas.gov.au/children</a> Ph: 1300 737 639
Victoria	
Victoria Police Non-urgent police assistance Ph: (03) 9247 6666 <a href="http://www.police.vic.gov.au">www.police.vic.gov.au</a>	Department of Human Services <a href="http://www.dhs.vic.gov.au">www.dhs.vic.gov.au</a> Ph: 131 278
Western Australia	
Western Australia Police Non-urgent police assistance Ph: 131 444 <a href="http://www.police.wa.gov.au">www.police.wa.gov.au</a>	Department for Child Protection and Family Support <a href="http://www.dcp.wa.gov.au">www.dcp.wa.gov.au</a> Ph: (08) 9222 2555 or 1800 622 258