



# **AUSTRALIA POWER BOAT ASSOCIATION MEMBER PROTECTION POLICY**

**Updated February 2014**

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## ***PREFACE***

The APBA and its State Associations are committed to the health, safety and general well being of all the participants involved with the sport. Equally, the APBA and its State Associations are committed to the goals of equity and diversity. We aim to provide an environment for the powerboating community that fosters fairness, equity, and respect for social and cultural diversity, and that is free from unlawful discrimination, harassment and vilification.

This Member Protection Policy seeks to foster a culture that values and responds to the powerboating community's rich diversity, and ensure that all members of the powerboating community are aware of their rights and responsibilities. It aims to provide these in the strong acknowledgement of the predominantly volunteer nature of the powerboating community.

An equitable and diverse environment can be achieved through the application of some basic principles:

- Treat each other with respect and dignity.
- Recognise that all people are different and value appropriate differences.
- Use the different contributions that people can make.
- Make judgements genuinely based on fairness and merit.
- Eliminate artificial, unfair and inappropriate barriers to participation.
- Provide appropriate means to monitor and address discrimination and harassment.

We commend this Policy to you and on behalf of the APBA and its State Associations wish you safe, fair and successful power boating.

**APBA - National Authority**  
**February 2014**

## **PART A: MEMBER PROTECTION POLICY**

### **1. Introduction**

The APBA is the national governing body for power boating racing in Australia.

The APBA is an Association formed by seven member Associations.

The APBA aims to develop the sport at all levels through effective governance, promotion of powerboating, raising community awareness, supporting the development of competitors, participants, and the coordination of events.

The APBA's objectives are -

- To control, govern and administer, to formulate and enforce all racing and safety rules throughout Australia for every form of competition between powerboats including trials of speed and endurance.
- To promote and encourage, to protect and advance throughout Australia the use, maintenance, design, development and improvement, and the racing of all powerboats, and any other form of appropriate aquatic sport, which may be undertaken by members and/or their vessels generally.

The APBA's values are to -

- Be professional in approach and management.
- Make decisions based on the best interests of the Association.
- Strive for open, effective and timely communication.
- Work as a team.

### **2. Purpose of this policy**

This Member Protection Policy ("policy") will work towards maintaining ethical and informed decision-making and responsible behaviours within our sport. It outlines our commitment to a person's right to be treated with respect and dignity and to be safe and protected from abuse. This policy informs everyone involved in our sport at the national level of his or her legal and ethical rights and responsibilities and the standards of behaviour that are required.

The policy attachments outline the procedures that support our commitment to eliminating discrimination, harassment, child abuse and other forms of inappropriate behaviour from our sport. As part of this commitment, the APBA will take disciplinary action against any person or organisation bound by this policy if they breach it.

This policy has been first endorsed and approved by the APBA's National Council in February 2013. The policy starts on 9<sup>th</sup> February 2014 and will operate until replaced. This policy and/or its attachments may be amended from time to time by resolution of the National Council of the APBA.

Copies of the current policy and its attachments can be obtained from the APBA website.

For information on the rights, responsibilities and requirements for people involved in our sport at the club level, please refer to the member protection policies of the relevant state association or club.

### **3. Who this Policy Applies To**

This policy applies to the following, whether they are in a paid or unpaid/voluntary capacity:

- Individuals appointed or elected to boards, committees and sub-committees at the national or state level;
- Employees and volunteers of the APBA and its State Associations;
- Support personnel;
- Race officials and other officials involved in the regulation of the sport;
- Competitors (including drivers and crew) and their crew;
- Members including life members;
- Member associations;
- Affiliated clubs and associated organizations;

- Peak associations and the National Council;
- Any other person or organization that is a member of or affiliated to the APBA;
- Parents, guardians, spectators and sponsors to the full extent that is Possible.

This policy, once adopted in accordance with their constitution, may also apply to State associations and affiliated clubs.

Our State Associations have supported the APBA in the adoption and implementation of this policy in accordance with their respective constitution. State Associations will use their best endeavours to ensure that their affiliated Clubs and individual Members are bound by this policy and are made aware of this policy and what it says.

Where a matter relates to the rules of the sport the Racing Rules shall be adhered to in the first instance.

This policy will continue to apply to a person, even after they have stopped their association with the APBA or their relevant State Association, if disciplinary action against that person has commenced.

#### **4. Code of Conduct**

The APBA requires every individual and organization bound by this policy to:

- Be ethical, fair and honest in all their dealings with other people and the APBA;
- Treat all persons with respect and courtesy and have proper regard for their dignity, rights and obligations;
- Always place the safety and welfare of children above other considerations;
- Comply with the APBA's constitution, rules and policies including this member protection policy;
- Operate with the rules and spirit of the sport;
- Comply with all relevant Australian laws (Federal and State), particularly anti-discrimination and child protection laws; and
- Abide by the relevant Role-specific Codes of Conduct outlined in Part D of this policy.

#### **5. Responsibilities of the Organisation**

The APBA and its affiliated State Associations will use their best endeavours to:

- Adopt, implement and comply with this policy;
- Publish, distribute and promote this policy and the consequences of breaches;
- Promote and model appropriate standards of behaviour at all times;
- Promptly deal with any breaches or complaints made under this policy in a sensitive, fair, timely and confidential manner;
- Apply this policy consistently;
- Recognise and enforce any penalty imposed under this policy;
- Ensure that a copy of this policy is available or accessible to the persons and associations to whom this policy applies;
- Use appropriately trained people to receive and manage complaints and allegations e.g. Member Protection Information Officers (MPIOs);
- Monitor and review this policy at least annually.

#### **6. Individual Responsibilities**

Individuals bound by this policy are responsible for:

- Making themselves aware of the policy and complying with its standards of behaviour;
- Complying with our screening requirements and any state/territory Working with Children checks;
- Placing the safety and welfare of children above other considerations;
- Being accountable for their behaviour;
- Following the procedures outlined in this policy if they wish to make a complaint or report a concern about possible child abuse, discrimination, harassment or other inappropriate behaviour; and
- Complying with any decisions and/or disciplinary measures imposed under this policy.

## **7. Policy Position Statements**

### **7.1 Child Protection Policy**

The APBA and its State Associations are committed to the safety and wellbeing of all children and young people involved in our sport. We support the rights of the child and will act without hesitation to ensure a child safe environment is maintained at all times. We also support the rights and wellbeing of our staff and volunteers and encourage their active participation in building and maintaining a secure environment for all participants.

The APBA and its State Associations acknowledge that our staff, members and volunteers provide a valuable contribution to the positive experiences of children involved in our sport. The APBA and its State Associations aim to continue this and to take measures to protect the safety and welfare of children participating in our sport by:

- Prohibiting any form of abuse against children
- Ensuring that people have completed a satisfactory Working with Children Checks where the relevant state/territory law requires this;
- Carefully selecting and screening people over the age of 16 who work, coach or have regular unsupervised contact with children;
- Promoting and enforcing our codes of behaviour, particularly for roles associated with juniors;
- Promote the involvement and participation of children and young people in developing and maintaining child-safe environments;
- Responding to all reports and complaints of abuse promptly, seriously and confidentially;
- Making information about child protection available, particularly for roles associated with children;
- Adopting practices that reduce risks and provide the greatest opportunity of having a child safe environment.

Anyone who reasonably suspects that a child has been or is being abused by someone within our sport, is to report it immediately to the police or relevant government agency and National President or State President. Descriptions of the sort of activity which may be abuse are in the Dictionary at Clause 10.

### **7.2 Taking Images of Children**

Images of children can be used inappropriately or illegally. The APBA and its State Associations requires that individuals and associations, wherever possible, obtain permission from a child's parent/guardian before taking an image of a child that is not their own and ensure that the parent knows the way the image will be used. We also require the privacy of others to be respected and disallow the use of camera phones, videos and cameras inside changing areas, showers and toilets.

If the APBA and/or one of its State Associations uses an image of a child it will avoid naming or identifying the child or it will, wherever possible, avoid using both the first name and surname. We will not display personal information such as residential address, email address or telephone numbers without gaining consent from the parent/guardian. We will not display information about hobbies, likes/dislikes, school, etc as this information can be used as grooming tools by pedophiles or other persons. We will only use appropriate images of a child, relevant to our sport and ensure that the child is suitably clothed in a manner that promotes the sport, displays its successes, etc. Where possible we will seek permission to use these images.

### **7.3 Anti-Discrimination and Harassment**

The APBA and its State Associations aims to provide a sport environment where all those involved in its activities are treated with dignity and respect, and without harassment or discrimination.

The APBA recognizes that all those involved in its activities cannot enjoy themselves, perform to their best, or be effective or fully productive if they are being treated unfairly, discriminated against or harassed.

The APBA prohibits all forms of harassment, discrimination and bullying. These are extremely distressing, offensive, humiliating and/or threatening and create an uncomfortable and

unpleasant environment. In most cases discrimination and harassment are against the law.

Descriptions of some of the types of behaviour which could be regarded as harassment, discrimination and bullying are listed in the Dictionary at [clause 10].

If any person feels they are being harassed or discriminated against by another person or organisation bound by this policy, please refer to our complaints procedure outlined in attachment C1 of this policy. This will explain what to do about the behaviour and how the APBA and its State Associations will deal with the problem.

#### **7.4 Sexual Relationships**

The APBA and its State Associations takes the position that sexual relationships between officials and competitors should be avoided as these relationships can have harmful effects on the individual involved, on other officials and competitors, and on the sport's public image. Such relationships may be intentionally or unintentionally exploitative due to a disparity between officials and competitors in terms of authority, power, maturity, status, influence and dependence.

Should a sexual relationship exist between an official and competitor, the APBA and its State Associations will consider whether any action is necessary. Factors that may be relevant in this consideration are the age and maturity of the official relative to the competitor, the financial or emotional dependence of the competitor on the official, and the likelihood of the relationship having any adverse impact on the competitor and/or other competitors. If it is determined that the sexual relationship is inappropriate, action may be taken to stop the relationship with the competitor. Action may include transfer, a request for resignation or dismissal from official duties.

In the event that a competitor attempts to initiate an intimate sexual relationship, the official must take personal responsibility for discouraging such approaches, explaining the ethical basis for such action. The official or competitor may wish to approach the National President and/or the President of their State Association if they feel harassed. Our complaints procedure is outlined in Attachment D1 of this policy.

#### **7.5 Pregnancy**

Everyone bound by this policy must treat pregnant women with dignity and respect and any unreasonable barriers to participation by them in our sport should be removed. We will not tolerate any discrimination or harassment against pregnant women.

While many sporting activities are safe for pregnant women, there may be particular risks that apply to some women during pregnancy. Those risks will depend on the nature of the sporting activity and the particular pregnant woman's circumstances. Pregnant women should be aware that their own health and wellbeing, and that of their unborn children, should be of utmost importance in their decision making about the way they participate in our sport.

The APBA and its State Associations recommends that pregnant women wanting to participate in our sport consult with their medical advisers, make themselves aware of the facts about pregnancy in sport, and ensure that they make informed decisions about participation. We will only require pregnant women to sign a disclaimer if we require other participants to sign one in similar circumstances. We will not require women to undertake a pregnancy test.

#### **7.6 Gender Identity**

Everyone bound by this policy must treat people who identify as transgender fairly and with dignity and respect. This includes acting with sensitivity and respect where a person is undergoing gender transition. We will not tolerate any unlawful discrimination or harassment of a person who identifies as transgender or transsexual or who is thought to be transgender. Descriptions of the types of behaviour which could be regarded as transgender discrimination or harassment are provided in the Dictionary in section 10.

The APBA and its State Associations recognises that the exclusion of transgender people from participation in sporting events and activities has significant implications for their health, wellbeing and involvement in community life. In general the APBA and its State Associations will facilitate transgender persons participating in our sport with the gender with which they identify.

The APBA and its State Associations also recognises there is debate over whether a male to female transgender person obtains any physical advantage over other female participants. This debate is reflected in the divergent discrimination laws across the country. If issues of performance advantage arise, the APBA and its State Associations will seek advice on the application of those laws in the particular circumstances.

The APBA and its State Associations is aware that the International Olympic Committee (IOC) has established criteria for selection and participation in the Olympic Games. Where a transgender person intends competing at an elite level, we will encourage them to obtain advice about the IOC's criteria which may differ from the position taken by the APBA and its State Associations.

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

### **7.7 Alcohol**

The APBA through its State Associations recommend that their member Clubs adhere to strict guidelines regarding the responsible consumption of alcohol. Generally, alcohol should not be available nor be consumed at a boating event at which children under 18 are participants in the sport. Responsible service and consumption of alcohol should apply to any alcohol to be consumed after the competition has concluded, including light alcohol and soft drinks always being available; wherever possible, food being available to be consumed when alcohol is available; transport policies, and Board/Committee Members being in attendance to ensure appropriate practices are followed. Guidance can be obtained from the "Alcohol Management Policy" available at

<http://www.goodsports.com.au/goodsports/pages/sample-policies.html>.

### **7.8 Smoking**

The following policies should be applied to boating and social events:

- No smoking shall occur at or near any sporting event or competition involving persons under the age of 18. This policy shall apply to competitors, participants, officials and volunteers;
- Social functions shall be smoke free, with smoking permitted at designated outdoor smoking areas;
- Officials, volunteers, competitors and participants will refrain from smoking and remain smoke free while involved in an official capacity for any of the APBA, State representative team(s), on and off the water.

### **7.9 Cyber Bullying/Safety**

Bullying and harassment in all forms is regarded by the APBA and its State Associations as unacceptable in our sport. Given the emergence of new telephone and internet social networks, the opportunity for unwanted and improper comments and statements has dramatically increased. Messages or statements made in these ways using these means of communication are largely instantaneous, and can easily be abused. Others may also manipulate a person by encouraging a statement to be made on twitter or facebook, for example, when the writer may be upset or vulnerable. Bullying has the potential to cause great anxiety and distress to the person who has been the target of any comments or statements. In some cases, bullying is regarded as a criminal offence punishable by imprisonment, amongst other things. Frustration at an official, crew-mate, coach, or sporting body should never be communicated on social network channels, but rather by way of reasoned and logical verbal and written statements and where appropriate, complaints, to the relevant organising authority or peak sporting body.

### **7.10 Social Networking Websites**

The APBA its State Associations acknowledge the emergence of new technology and communication mediums (new media), and wishes to enable such new media to be used to benefit the sport and its participants, and to applaud achievements. This can occur due to the immediate nature of communication to a wide audience using channels such as facebook, twitter, and SMS. However, participants within the sport need to be very mindful of a few key matters that could lead to inappropriate use of new media, at times unintended, and at other

times without a proper understanding that once comments are made or published, they are in public for a long time, and are hard to take back (retract). The APBA its State Associations recommends that participants:

- Do not include personal information of yourself or others in social media channels;
- Do not use offensive, provocative or hateful language;
- Use your best judgment – do not publish something that makes you the slightest bit uncomfortable, and never write/publish if you are feeling emotional or upset (or are intoxicated);
- Always ask for a person's permission before posting their picture on a social networking forum;
- Never comment on rumours, do not deny or affirm them or speculate about rumours; and
- Always use social network forums to add value and promote the sport in a positive way.

## **8. Complaints Procedures**

### **8.1 Complaints**

The APBA and its State Associations aim to provide a simple procedure for complaints based on the principles of procedural fairness (natural justice). Any person (a complainant) may report a complaint about a person/s or organisation bound by this policy (respondent). Such complaints should be reported to the APBA National President or the President of the relevant State Association.

The lowest level at which a matter can be dealt with shall always be preferred. Therefore, if a complaint relates to behaviour or an incident that occurred at the:

- club level or involves people operating at the club level, then the complaint should be reported to and handled by the relevant club in the first instance.
- state level or involves people operating at the state level, then the complaint should be reported to and handled by the relevant state association in the first instance; or

Only matters that relate to occur at the national level and the most serious cases from club and state level should be referred to the national body.

A complaint may be dealt with informally or formally. The complainant usually decides this unless the APBA National President or the President of the relevant State Association considers that the complaint falls outside this policy and would be better dealt with another way and/or the law requires the complaint/allegation to be reported to an appropriate authority.

All complaints will be dealt with promptly, seriously, sensitively and confidentially. Our complaint procedures are outlined in attachment D1.

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

### **8.2 Improper Complaints & Victimisation**

The APBA and its State Associations aim for our complaints procedure to have integrity and be free of unfair repercussions or victimisation against the person making the complaint. If at any point in the complaints process the MPIO or the person handling the complaint considers that a complainant has **knowingly** made an untrue complaint or the complaint is malicious or intended to cause distress to the person complained of, the matter may be referred to the relevant State Association Board or State Association established Tribunal for appropriate action which may include disciplinary action against the complainant.

The APBA and its State Associations will take all necessary steps to make sure that people involved in a complaint are not victimised. Disciplinary measures can be imposed on anyone who harasses or victimises another person for making a complaint.

### **8.3 Mediation**

The APBA and its State Associations aims to resolve complaints with a minimum of fuss. Complaints may be resolved by agreement between the people involved with no need for

disciplinary action. Mediation allows those involved to be heard and to come up with mutually agreed solutions.

Mediation may occur before or after the investigation of a complaint. If a complainant wishes to resolve the complaint with the help of a mediator, the National President or the President of the relevant State Association will, in consultation with the complainant, arrange for a neutral third party mediator where possible. Lawyers are not able to negotiate on behalf of the complainant and/or the respondent. More information on the mediation process is outlined in attachment C2.

#### **8.4 Tribunals**

A Tribunal may be convened to hear a formal complaint:

- referred to it by the National President
- President of the relevant State Association;
- Referred to it or escalated by a state association [because of the serious nature of the complaint, or unable to be resolved at the state level, or the state policy directs it to be]; and/or
- for an alleged breach of this policy.

Our Tribunal procedure is outlined in attachment D5.

A respondent may lodge an appeal only to the Appeal Tribunal in respect of a Tribunal decision. The decision of the Appeal Tribunal is final and binding on the people involved. Our appeals process is outlined in attachment D5.

Every organisation bound by this policy will recognise and enforce any decision of a Tribunal or Appeal Tribunal under this policy.

### **9. 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 do anything contrary to this policy, including but not limited to:

- Breaching the Codes of Behaviour (attachment B to this policy);
- Bringing the sport and/or the APBA and/or its State Associations into disrepute, or acting in a manner likely to bring the sport and/or the APBA and/or its State Associations into disrepute;
- Failing to follow the APBA and/or State Association policies (including this policy) and procedures for the protection, safety and welfare of children;
- Discriminating against, harassing or bullying (including cyber bullying) any person;
- Victimising another person for reporting a complaint;
- Engaging in a sexually inappropriate relationship with a person that they supervise, or have influence, authority or power over;
- Verbally or physically assaulting another person, intimidating another person or creating a hostile environment within the sport;
- Disclosing to any unauthorised person or organisation any the APBA and/or State Association information that is of a private, confidential or privileged nature;
- Making a complaint they **knew** to be untrue, vexatious, malicious or improper;
- Failing to comply with a penalty imposed after a finding that the individual or organisation has breached this policy; or
- Failing to comply with a direction given to the individual or organisation during the discipline process.

### **10. Disciplinary Measures**

If an individual or organisation to which this policy applies breaches this policy, one or more forms of discipline may be imposed. Any disciplinary measure imposed under this policy must:

- Be applied consistent with any contractual and employment rules and requirements;
- Be fair and reasonable;
- Be based on the evidence and information presented and the seriousness of the breach; and
- Be determined in accordance with our Constitution, By Laws, this policy and/or Rules of the sport.

### **10.1 Individual**

Subject to constitutional, contractual and/or employment requirements, if a finding is made by a Tribunal that an individual has breached this policy, one or more of the following forms of discipline may be imposed:

- A direction that the individual make a verbal and/or written apology;
- A written warning;
- A direction that the individual attend counselling to address their behaviour;
- A withdrawal of any awards, scholarships, placings, records, achievements bestowed in any regattas, activities or events held or sanctioned by the APBA and/or its State Associations;
- A demotion or transfer of the individual to another location, role or activity;
- A suspension of the individual's membership or participation or engagement in a role or activity;
- Termination of the individual's membership, appointment or engagement;
- A recommendation that the APBA and/or its State Associations terminate the individual's membership, appointment or engagement;
- In the case of a coach or official, a direction that the relevant organisation de-register the accreditation of the coach or official for a period of time or permanently;
- A fine;
- Any other form of discipline that the APBA or relevant State Association Board considers appropriate.

### **9.2 Organisation**

If a finding is made that an affiliated club or class association has breached its own or this Policy one or more of the following forms of discipline may be imposed by the APBA or relevant State Association Board:

- A written warning;
- A fine;
- A direction that any rights, privileges and benefits provided to that organisation by the national body or other peak association be suspended for a specified period;
- A direction that any funding granted or given to it by the APBA or the relevant State Association cease from a specified date;
- A direction that the APBA and/or its State Associations cease to sanction events held by or under the auspices of that organisation;
- A recommendation to the APBA or relevant State Association Board that its membership of the peak body be suspended or terminated in accordance with the relevant constitution or rules; and/or
- Any other form of discipline that the APBA or relevant State Association considers to be reasonable and appropriate.

### **9.3 Factors to consider**

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

- Nature and seriousness of the breach;
- If the person knew or should have known that the behaviour was a breach;
- Level of contrition;
- The effect of the proposed disciplinary measures on the person including any personal, professional or financial consequences;
- If there have been relevant prior warnings or disciplinary action;
- Ability to enforce discipline if the person is a parent or spectator (even if they are bound by the policy); and/or
- Any other mitigating circumstances.

## **10. Dictionary**

This Dictionary sets out the meaning of words used in this policy and its attachments without limiting the ordinary and natural meaning of the words. State/Territory specific definitions and more detail on some of the words in this dictionary can be sourced from the relevant

State/Territory child protection commissions or equal opportunity and anti-discrimination commissions.

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

**Affiliated club** means those clubs which are directly affiliated as a club to a State Association

**Child** means a person who is under the age of 18 years

**Child abuse** involves conduct which puts children at risk of harm (usually by adults, sometimes by other children) and often by those they know and trust. It can take many forms, including verbal and physical actions and by people failing to provide them with basic care. Child abuse may include:

- 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).
- 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).
- 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).
- 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).

**Complaint** means a complaint made under section 7.

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

**Complaint Handler/Manager** means a person appointed under this policy to investigate a Complaint

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

- Age;
- Disability;
- Family/carer responsibilities;
- Gender identity/transgender status;
- Homosexuality and sexual orientation;
- Irrelevant medical record;
- Irrelevant criminal record;
- Political belief/activity;
- Pregnancy and breastfeeding;
- Race;
- Religious belief/activity;
- Sex or gender;
- Social origin;
- Trade union membership/activity.

(Some States and Territories include additional characteristics such as physical features or association with a person with one or more of the characteristics listed above).

### **Examples of Discrimination**

- **Age:** A club refuses to allow an older person to coach a team simply because of age.
- **Breastfeeding:** A member of the club who is breastfeeding a baby in the club rooms is asked to leave.
- **Disability:** A boating participant is overlooked for team selection because of mild epilepsy.
- **Family responsibilities:** A club decides not to promote an employee because he has a child with a disability even though the employee is the best person for the job.
- **Gender Identity:** A transgender boating participant is harassed when other boating participants refuse to call her by her female name.
- **Homosexuality:** An boating participant is ostracised from her team after it becomes known that she is a lesbian.
- **Marital Status:** A boating participant is deliberately excluded from team activities and social functions because she is single
- **Pregnancy:** A woman is dropped from a squad when she becomes pregnant.
- **Race:** An African official is not permitted to be a PRO with a high proportion of African boating participants on one team because of his race.
- **Sex:** Specialist coaching is only offered to male boating participants in a mixed team.
- **Harassment** is any type of behaviour that the other person does not want and that is offensive, abusive, belittling or threatening. The behaviour is unwelcome and a reasonable person would recognise it as being unwelcome and likely to cause the recipient to feel offended, humiliated or intimidated.

Unlawful harassment is sexual or targets a person because of their race, sex, pregnancy, marital status, sexual orientation or some other personal characteristic protected by law (see characteristic list under discrimination).

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

Discrimination and harassment are not permitted in employment (including volunteer and unpaid employment); when providing sporting goods and services including access to sporting facilities; when providing education and accommodation; the selection or otherwise of any person for competition or a team (domestic or international); the entry or otherwise of any boating participant or other person to any competition and the obtaining or retaining membership of clubs and organisations (including the rights and privileges of membership).

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

- holding a competitive sporting activity for boys and girls only who are under 12 years of age or of any age where strength, stamina or physique is relevant or
- not selecting a participant if the person's disability means he or she is not reasonably capable of performing the actions reasonably required for that particular sporting activity.

Requesting, assisting, instructing, inducing or encouraging another person to engage in discrimination or harassment may also be against the law.

It is also a breach of discrimination law to victimise a person who is involved in making a complaint of discrimination or harassment. Example: a boating participant is ostracised by her male coach for complaining about his sexist behaviour or for supporting another boating participant who has made such a complaint.

Public acts of racial hatred which are reasonably likely to offend, insult, humiliate or intimidate are also prohibited. This applies to spectators, participants or any other person who engages in such an act in public. Some states and territories also prohibit public acts that vilify on other grounds such as homosexuality, gender identity, HIV/AIDS, religion and disability – see vilification.

**Mediator** means an impartial/neutral person appointed to mediate Complaints.

**Member** means a person affiliated to the APBA through a State Association and an affiliated club as a silver or gold cardholder in accordance with the APBA's terms and conditions of

membership.

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

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

- both the Complainant and the Respondent must know the full details of what is being said against them and have the opportunity to respond;
- all relevant submissions must be considered;
- no person may judge their own case;
- the decision maker/s must be unbiased, fair and just;
- the penalties imposed must be fair.

**Police check** means a national criminal history record check conducted as a pre-employment, pre-engagement or current employment background check on a person.

**Policy, policy and this policy** means this Member Protection Policy.

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

**Role-specific codes of conduct (or behaviour)** means standards of conduct required of certain roles (e.g. coaches).

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

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

**Sexual offence** means a criminal offence involving sexual activity or acts of indecency including but not limited to (due to differences under state/territory legislation):

- Rape
- Indecent assault
- Sexual assault
- Assault with intent to have sexual intercourse
- Incest
- Sexual penetration of child under the age of 16
- Indecent act with child under the age of 16
- Sexual relationship with child under the age of 16
- Sexual offences against people with impaired mental functioning
- Abduction and detention
- Procuring sexual penetration by threats or fraud
- Procuring sexual penetration of child under the age of 16
- Bestiality
- Soliciting acts of sexual penetration or indecent acts
- Promoting or engaging in acts of child prostitution
- Obtaining benefits from child prostitution
- Possession of child pornography
- Publishing child pornography and indecent articles.

**Transgender** is a general term applied to individuals and behaviours that differ from the gender role commonly, but not always, assigned at birth. It does not imply any specific form of sexual orientation.

**Victimisation** means subjecting a person or threatening to subject a person to any detriment or unfair treatment because that person has or intends to pursue their rights to make any

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

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