



# CODE OF CONDUCT

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JUNE 2025

Linked legislation, regulations and/or external policies	<i>Age Discrimination Act 2004 (Cth)</i> <i>Disability Discrimination Act 1992 (Cth)</i> <i>Racial Discrimination Act 1975 (Cth)</i> <i>Sex Discrimination Act 1984 (Cth)</i> <i>Anti-Discrimination Act 1977 (NSW)</i> <i>Anti-Discrimination Act 1991 (Qld)</i> <i>Anti-Discrimination Act 1996 (NT)</i> <i>Anti-Discrimination Act 1998 (Tas)</i> <i>Discrimination Act 1991 (ACT)</i> <i>Equal Opportunity Act 1984 (SA)</i> <i>Equal Opportunity Act 1984 (WA)</i> <i>Equal Opportunity Act 2010 (Vic)</i>
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# A. Introduction

Rugby AU is committed to promoting and strengthening the positive image and integrity of Rugby Union and ensuring that every Participant feels safe and included, and is treated with respect, dignity and fairness. We require all those involved in the Game to act in accordance with our core values of **Passion, Integrity, Discipline, Respect** and **Teamwork**.

This Rugby AU Code of Conduct (**Code**) sets out the standards of behaviour that are expected of all Participants in the Game which includes players, coaches, administrators, employees, contractors, directors, volunteers, parents and spectators.

The Code aims to deter conduct that could damage or undermine public confidence in the sport or its Participants. It also establishes a unified framework for the timely, fair and consistent management and resolution of complaints across all levels of the Game in Australia, including the administration of a disciplinary process and the imposition of sanctions for Prohibited Conduct.

All Relevant Organisations must:

- (a) **Actively Champion the Code:** ensure the Code is published, distributed and promoted;
- (b) **Enforce Sanctions:** recognise and consistently enforce any sanctions imposed under the Code;
- (c) **Ensure Accessibility:** ensure a copy of the Code is accessible to all individuals and organisations covered by its provisions; and
- (d) **Designate an Administrator:** appoint a person(s) who is responsible for the administration of the Code within their jurisdiction.

All Relevant Persons must:

- (a) **Ensure their Understanding:** familiarise themselves with, and ensure their understanding of, the contents and requirements of the Code;<sup>1</sup>
- (b) **Respect the Code:** respect the Code, its spirit and those who are responsible for administering it;
- (c) **Comply:** comply with all relevant provisions of the Code and any disciplinary sanctions imposed under it to the best of their abilities;
- (d) **Be Accountable:** be accountable and take responsibility for their behaviour; and

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<sup>1</sup> For example, through undertaking and completing education modules available in the Rugby Learning Centre available at <https://myaccount.rugbyexplorer.com.au/>.

- (e) **Support the Code:** report alleged Prohibited Conduct and cooperate fully with any requests for information and/or investigations commenced under the Code.

By virtue of their membership, employment, engagement, involvement or participation in the Game, all Relevant Organisations and Relevant Persons agree:

- (a) to be bound by the Laws of the Game and all Regulations, By-Laws and Rugby AU codes, policies and guidelines; and
- (b) that any sanctions imposed on them under this Code will be recognised and applied at all levels of the Game, domestically and internationally.

Defined terms used in this Code are set out in **Appendix 1**.

## 1. OBJECTS OF THE CODE

The Code aims to ensure that Rugby AU's Expected Standards of Behaviour are upheld and maintained by Relevant Persons and Relevant Organisations at all times by:

- (a) setting out the standards of behaviour that every Relevant Organisation and Relevant Person must adhere to;
- (b) guiding Relevant Organisations and Relevant Persons on what to do if they experience or witness Prohibited Conduct;
- (c) seeking to deter conduct that could damage the image and integrity of the Game including by impairing public confidence in it or its Relevant Persons or Relevant Organisations; and
- (d) providing a mechanism for complaint handling and the resolution of any alleged Prohibited Conduct under this Code or an Eligible Policy.

## 2. JURISDICTION

### 2.1. WHO THE CODE APPLIES TO

This Code applies to Relevant Persons and Relevant Organisations.

### 2.2. WHEN THE CODE APPLIES

- (a) All Relevant Persons and Relevant Organisations must comply with this Code at all times. This includes but is not limited to:
  - (i) when interacting with any Relevant Organisations or their Employees, Contractors, Volunteers and representatives;
  - (ii) when interacting with other Relevant Persons or Relevant Organisations in their official capacity; and/or

- (iii) when engaging in Activities related to their general membership or standing as a Relevant Person or Relevant Organisation.
- (b) This Code does not apply to any of the following:
  - (i) conduct or interactions (including those on Social Media) involving one or more Relevant Persons or Relevant Organisations that are unrelated to the Game<sup>2</sup>;
  - (ii) conduct or interaction(s) that, whilst related to a previous incident of Prohibited Conduct, is no longer directly related to the Game, even if such conduct or interaction(s) would otherwise be Prohibited Conduct<sup>3</sup>;
  - (iii) where the Relevant Organisation determines, in its absolute discretion, that the alleged Prohibited Conduct is better addressed under another Rugby AU policy, code, rules or guidelines or by another organisation; or
  - (iv) any allegation, complaint or information:
    - (1) that is solely a Personal Grievance;
    - (2) that is mischievous, vexatious or knowingly untrue;
    - (3) where the person complained of is not a Relevant Person or Relevant Organisation and/or was not bound by the Code or the relevant Eligible Policy at the time the alleged Prohibited Conduct occurred;
    - (4) that does not refer to a breach of the Code or an Eligible Policy; or
    - (5) that constitutes a Protected Disclosure.

## 2.3. WHAT HAPPENS WHEN THERE ARE CONFLICTING PROVISIONS?

- (a) Laws of the Commonwealth, or a State or Territory, always take precedence over the Code and must be complied with in the first instance.
- (b) If alleged Prohibited Conduct is the subject of a Protected Disclosure in relation to Rugby AU, it will be dealt with under Rugby AU's Whistleblowing Policy (if applicable).
- (c) This Code does not prevent the referral of alleged Prohibited Conduct or criminal activity to law enforcement.
- (d) In case of any conflict, Rugby AU's Constitution overrides the Code.

## 2.4. ON-FIELD DISCIPLINARY MATTERS (FOUL PLAY) TO BE DEALT WITH UNDER DISCIPLINARY RULES

For clarity, on-field disciplinary matters arising from a sending off or citing under World Rugby Law 9 (Foul Play) will be dealt with under the Rugby AU Disciplinary Rules, and not under the Code.

<sup>2</sup> For example, two Relevant Persons engaging in a verbal argument at a shopping centre, or two Relevant Persons sending abusive social media messages to each other, in circumstances that have no direct link to rugby.

<sup>3</sup> For example, where a Relevant Person allegedly breaches this Code by physically assaulting another Relevant Person at a match, but personal grievance(s) between those two individuals arise or otherwise continue in relation to issues not directly related to rugby, such as social media abuse in circumstances where there is no direct or apparent link to rugby.

# B. Prohibited Conduct Under the Code

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## 3. EXPECTED STANDARDS OF BEHAVIOUR

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### 3.1. GENERAL BEHAVIOUR

Relevant Persons and Relevant Organisations must:

- (a) act and operate in accordance with the Laws of the Game and all Regulations, By-Laws and Rugby AU's codes, policies and guidelines<sup>4</sup>;
- (b) treat everyone with respect, courtesy and dignity and respect their rights and worth;
- (c) act with honesty, integrity, objectivity and professionalism;
- (d) be accountable and take responsibility for their behaviours and actions;
- (e) maintain appropriate, professional relationships with other Relevant Persons or individuals within or related to a Relevant Organisation at all times;
- (f) respect the role of administrators and Officials whose job it is to ensure that the Game and any Activities are conducted fairly and according to the Laws of the Game;
- (g) respect those who assist in administering this Code, Rugby AU policies and/or the Game or any Activity;
- (h) comply with all reasonable directions and decisions of any authorised representative of a Relevant Organisation;
- (i) act with care and diligence to safeguard the health and safety of themselves and others;
- (j) provide a safe and inclusive environment for all Activities<sup>5</sup> in accordance with any Relevant Organisation's applicable codes, policies or guidelines; and
- (k) respect and protect all personal information of a Participant and all other confidential information obtained by reason of, or otherwise for the purposes of, any Activity.

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<sup>4</sup> A full list of all Rugby AU's codes, policies and guidelines can be found at: <https://australia.rugby/about/codes-and-policies/all-codes-and-policies>.

<sup>5</sup> Including ensuring that all required accreditations are obtained and kept up-to-date, for example, coaching and officiating.

### 3.2. VERBAL ABUSE

A Relevant Person or Relevant Organisation must not at any time directly or indirectly engage in any form of verbal abuse of another person. Verbal abuse includes, but is not limited to, making a statement that implies dishonesty or is derogatory, insulting, aggressive or otherwise abusive.

### 3.3. PHYSICAL ABUSE AND CONTACT

- (a) A Relevant Person or Relevant Organisation must not at any time engage in any form of Physical Abuse of another person.
- (b) All physical contact must be objectively appropriate to the situation. Relevant Persons and Relevant Organisations must not engage in physical contact that is reasonably likely to negatively affect the experience, safety or wellbeing of any person. This includes, but is not limited to, unwelcome or uninvited physical contact.

### 3.4. BULLYING, HARASSMENT, VILIFICATION AND OTHER HARMFUL BEHAVIOURS

- (a) Relevant Persons and Relevant Organisations must not engage in behaviour (including on Social Media) against a person or group which amounts to:
  - (i) Bullying (including cyber-bullying);
  - (ii) Harassment;
  - (iii) Emotional (Psychological) Abuse; or
  - (iv) Victimisation.

For a non-exhaustive list of examples of Bullying, Harassment, Emotional (Psychological) Abuse and Victimisation, see **Appendix 5**.

- (b) Relevant Persons and Relevant Organisations must not engage in behaviour towards, or make any comments (including on Social Media) to or about, a person or group of people that is:
  - (i) Ageist;
  - (ii) Sexist;
  - (iii) Racist;
  - (iv) Disablist;
  - (v) Homophobic; or
  - (vi) Transphobic.

- (c) Relevant Persons and Relevant Organisations must not engage in Vilification (including on Social Media).

For a non-exhaustive list of examples of Vilification, see **Appendix 5**.

- (d) Relevant Persons and Relevant Organisations must not engage in any conduct (including on Social Media) that would be reasonably likely to negatively affect the experience, safety or wellbeing of another person or group of people, including but not limited to:
  - (i) provocation or incitement of violence;
  - (ii) aggressive, abusive or threatening behaviour;
  - (iii) offensive behaviour including behaviour that is unreasonably critical, obscene, provocative, indecent or insulting; or
  - (iv) intimidating behaviour or creating a hostile or unsafe environment.

### 3.5. DISCRIMINATION

Relevant Persons and Relevant Organisations must not engage in any form of Discrimination.

For a non-exhaustive list of examples of Discrimination, see **Appendix 5**.

### 3.6. SEXUAL MISCONDUCT

Relevant Persons and Relevant Organisations must not engage in any form of Sexual Misconduct or Sexual Abuse.

### 3.7. BEHAVIOUR AT ANY ACTIVITY OR VENUE

Any Relevant Person or Relevant Organisation in attendance or present at an Activity must not engage in any of the following:

- (a) behaviour prohibited by a venue's ticketing or entry conditions;
- (b) acts of violence, aggression or intimidation including but not limited to such acts in the tunnels, changing rooms, warm-up areas or directed towards players, coaches, Officials and/or other Employees, Contractors or Volunteers at the venue;
- (c) drunk and disorderly behaviour that would be reasonably likely to negatively affect the experience, safety or wellbeing of another person or group of people;
- (d) possession of, or being under the influence of, an Illegal Drug at or in proximity to a venue where an Activity is taking or has recently taken place;
- (e) continued or unreasonable disruption of an Activity, including matches, or interference with any Relevant Person or Relevant Organisation's Employees, Contractors, Volunteers or other representatives performing their duties;
- (f) behaviour that creates a public nuisance within or around a venue where an Activity is taking or has recently taken place; or
- (g) deliberately damage the property of a Relevant Person or Relevant Organisation or any other property in connection with an Activity.



### 3.8. RESPECT FOR REFEREES AND OTHER OFFICIALS

- (a) Relevant Persons and Relevant Organisations must accept and respect the authority of all Officials and administrators of the Game, including but not limited to Referees, Match Managers, Ground Marshals, Match Day Doctors and Competition Managers, whose job it is to ensure that the Game and any Activities are conducted fairly and according to the Laws of the Game.
- (b) They must not:
  - (i) verbally abuse or engage in Physical Abuse;
  - (ii) threaten, intimidate or do anything that may reasonably cause a person to feel threatened or intimidated<sup>6</sup>;
  - (iii) use (including on Social Media) any offensive, derogatory or insulting language or behaviour;
  - (iv) use (including on Social Media) language that implies dishonesty or a lack of integrity; or
  - (v) show unnecessary dissension, displeasure or disapproval or behave in a way that is unreasonably critical,towards or about an Official or administrator or their decision.

### 3.9. BRINGING THE GAME OR OTHERS INTO DISREPUTE

Relevant Persons and Relevant Organisations must not engage in any conduct (including on Social Media) that:

- (a) could damage the image or reputation of the Game or any Relevant Person or Relevant Organisation;
- (b) has the effect or potential to prejudice or be detrimental to the interests of the Game or any Relevant Person or Relevant Organisation;
- (c) has the effect or potential to bring the Game or any Relevant Person or Relevant Organisation into disrepute;
- (d) is disparaging, derogatory or unreasonably critical of an Official (including a Match Official), Relevant Organisation or any of its Employees, Contractors or Volunteers, including their role in administering the Game; or
- (e) is disparaging, derogatory or critical of a Complaint Handler, Code of Conduct Committee, Judicial Committee, Appeal Committee or Relevant Organisation or their decision made under or in relation to the Code or an Eligible Policy or the Rugby AU Disciplinary Rules, without reasonable basis or justification.

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<sup>6</sup> For example, entering the field of play to approach a Match Official or Referee when not permitted or aggressively approaching a Match Official or Referee as they are walking to or from the field, may amount to a breach of this provision.

### 3.10. CRIMINAL CONDUCT

Relevant Persons and Relevant Organisations must not commit a criminal offence (whether or not a conviction has been recorded).

### 3.11. OBLIGATION TO REPORT AND COOPERATE

Relevant Persons and Relevant Organisations must:

- (a) assist and fully cooperate in any investigation or proceeding regarding an allegation of Prohibited Conduct under this Code or an Eligible Policy (including by providing any information, records or other material reasonably requested for the purpose of such investigation or proceeding);
- (b) not provide inaccurate, false or misleading information during the course of any such investigation or proceeding or in relation to any other disciplinary proceeding where they know or ought to know that the information is inaccurate, false or misleading; and
- (c) report an alleged breach of this Code or otherwise take reasonable steps to ensure that an alleged breach has been reported.

## 4. PROHIBITED CONDUCT

- 4.1. A Relevant Person or Relevant Organisation breaches this Code by failing to comply with the Expected Standards of Behaviour in the circumstances outlined in clauses 2.2(a), 3, this clause 4 and 5.4. A breach occurs whether the Prohibited Conduct is engaged in individually or collectively, and whether done deliberately or negligently (except where intent is a specific element of the Prohibited Conduct).
- 4.2. A Relevant Person or Relevant Organisation also breaches this Code if they:
  - (a) attempt to engage in Prohibited Conduct; or
  - (b) are complicit in, aid, encourage, sanction, cover up or authorise another person to engage in Prohibited Conduct; or
  - (c) agree with others to engage in Prohibited Conduct.
- 4.3. In any of the circumstances described in clause 4.2(a), a Relevant Person or Relevant Organisation may be treated for the purpose of this Code as if a breach has occurred (even if a breach did not actually result) and as if they committed the breach themselves (even if the breach was carried out by another). This discretion will be exercised on a case-by-case basis, considering all relevant factors, including the nature and severity of the alleged breach, the extent of the involvement (if any) of the Relevant Person or Relevant Organisation, and any mitigating or aggravating circumstances.
- 4.4. All Relevant Organisations must address all Prohibited Conduct within their jurisdictions to uphold the discipline, control, honesty and mutual respect fundamental to the image and integrity of the Game.

- 4.5. Any failure by a Relevant Person or Relevant Organisation to comply with Sanctions or disciplinary measures, including Provisional Action, imposed under this Code will be considered Prohibited Conduct.

## C. Managing Complaints Under the Code

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### 5. MAKING A COMPLAINT

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#### 5.1. WHAT IS A COMPLAINT?

- (a) A Complaint is a formal written submission of an allegation against a Respondent relating to Prohibited Conduct under the Code or an Eligible Policy.
- (b) Complaints must be submitted in writing, either to a Relevant Organisation or via the Rugby AU website<sup>7</sup>.
- (c) Complaints made via Social Media are discouraged and will not be acknowledged or accepted. Complainants must ensure they comply with Rugby AU's Social Media Policy at all times and should be aware that making claims via Social Media carries legal risks (including defamation and non-compliance with other applicable laws that may apply).

#### 5.2. WHO IS A COMPLAINANT?

- (a) A Complainant is a person or an organisation who makes a Complaint in accordance with the Code.
- (b) For the avoidance of doubt:
  - (i) a Complainant may include a person or an organisation who has not been, or will not be, directly affected by the alleged conduct<sup>8</sup>;
  - (ii) nothing in this Code should be interpreted as preventing a Relevant Organisation from initiating or otherwise acting under this Code on the basis of information received about a potential breach of this Code or an Eligible Policy even if a formal Complaint has not been received.
- (c) Where the person directly affected by the alleged conduct is a Vulnerable Person, a Complaint may be submitted on their behalf (e.g. by a parent or carer or other

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<sup>7</sup> <https://australia.rugby/about/codes-and-policies/reporting-a-concern>.

<sup>8</sup> For example, a coach who submits a complaint about alleged conduct they have witnessed towards another person such as their player, may, depending on the circumstances, be treated as a Complainant. In such a case, if the player were to also lodge a Complaint, the player would be treated as the Complainant.

support person). The Vulnerable Person will still be considered to be the Complainant in these circumstances.

### 5.3. ANONYMOUS COMPLAINTS

A Complaint may be submitted anonymously; however, this may limit the actions that can be taken in response to it.

### 5.4. UNREASONABLE OR VEXATIOUS COMPLAINANTS AND PARTIES

- (a) A person must not:
  - (i) submit a Complaint that is vexatious, malicious, or that they know is untrue or contains false or misleading information;
  - (ii) make unreasonable demands or requests of a Complaint Handler or the Relevant Organisation responsible for handling the Complaint or otherwise behave unreasonably during the Complaint process, such as:
    - (1) raising the same issues, which have previously been reported and dealt with by the Relevant Organisation, without presenting new evidence;
    - (2) making persistent or unreasonable requests to find out the progress of a Complaint or its outcome;
    - (3) repeatedly challenging the management or closure of a Complaint without a valid reason;
    - (4) making unreasonable demands about response times, actions or resolutions;
    - (5) making baseless threats of escalation or legal action; or
    - (6) being disrespectful, offensive, aggressive or abusive towards those involved in managing the Complaint process including the Complaint Handler.
- (b) Such conduct may be considered Prohibited Conduct under this Code, resulting in disciplinary action. Further, the Relevant Organisation may limit or control further interactions with the person engaging in such conduct.
- (c) If the Complainant engages in conduct described in clause 5.4(a), the Relevant Organisation may, at its discretion, close their Complaint without taking further action under this Code or otherwise to resolve it.

### 5.5. WHO IS A RESPONDENT?

A Respondent is a Relevant Person or Relevant Organisation against whom a Complaint has been made, who was subject to this Code or the relevant Eligible Policy at the time of the alleged conduct.

## 5.6. WITHDRAWING A COMPLAINT

- (a) A Complaint may be withdrawn at any time prior to the completion of the Complaint process. Withdrawal requests must be submitted in writing (including electronically) to the Relevant Organisation managing the Complaint.
- (b) Even if a Complaint is withdrawn, the Relevant Organisation retains the discretion to continue the Complaint process as outlined in this Code.

# 6. COMPLAINT HANDLING

## 6.1. APPOINTMENT OF A COMPLAINT HANDLER

Each Relevant Organisation must appoint a designated person (**Complaint Handler**) who is responsible for administering this Code including the handling of Complaints within their jurisdiction.<sup>9</sup>

## 6.2. DETERMINING THE LEVEL TO DEAL WITH THE COMPLAINT

- (a) Complaints must be managed at the lowest level first, wherever possible. Therefore, subject to clauses 6.2(b) and 6.2(c), if a Complaint relates to behaviour or an incident that occurred at:
  - (i) State or Territory level or involves people operating at the State or Territory level, then the Complaint must be handled by the relevant Member Union<sup>10</sup>;
  - (ii) district or competition level, or involves people operating at the district or competition level, the Complaint must be handled by that district or competition association; or
  - (iii) Club level or involves people operating at the Club level, then the complaint must be handled by the relevant Club.
- (b) If a real or perceived conflict of interest arises while handling a Complaint, the Relevant Organisation at the next higher level will decide which Relevant Organisation should handle the Complaint, subject to clause 6.2(c).<sup>11</sup>
- (c) The Rugby AU Head of Integrity has the authority to direct whether a Complaint should be handled by Rugby AU or another Relevant Organisation and may within their discretion consult with any other Relevant Person or Relevant Organisation before making such direction.

<sup>9</sup> A Relevant Organisation may appoint more than one Complaint Handler if required.

<sup>10</sup> Refer footnote 2.

<sup>11</sup> For the avoidance of doubt, a real or perceived conflict of interest will exist where a Club handling a Complaint may also be subject to the application of Rugby AU's Three Strike Policy. In those cases, the Club must not handle the Complaint and the decision regarding which Relevant Organisation will handle the Complaint rests, subject to clause 6.2(c), with the Relevant Organisation at the level immediately above the Club.

### 6.3. GUIDING PRINCIPLES WHEN HANDLING A COMPLAINT

- (a) Relevant Organisations should aim to resolve Complaints as quickly and informally as reasonably practicable having regard to the nature and seriousness of the Complaint.
- (b) Each Relevant Organisation must handle Complaints in a fair, just and transparent manner adhering to the following principles:
  - (i) treat all Complaints seriously;
  - (ii) act promptly;
  - (iii) treat people fairly and consider all accounts of the alleged conduct;
  - (iv) stay neutral and unbiased throughout the process;
  - (v) protect against Victimisation;
  - (vi) keep accurate records that are securely stored;
  - (vii) make decisions based only on information gathered not personal views;
  - (viii) ensure recommended disciplinary action(s) are proportionate to the alleged breach; and
  - (ix) ensure Complaint handling processes are accessible and responsive to the needs of Vulnerable Persons and incorporate child-safe practices as appropriate. This may include allowing a parent or guardian to accompany or act on behalf of a Vulnerable Person.
- (c) Parties involved in a Complaint including the Complainant, Respondent and witnesses may be supported by a support person or authorised representative. To exercise this right, a written request must be submitted to the Complaint Handler. This request will typically be approved unless there is a compelling reason to deny it.<sup>12</sup> The Complaint Handler will inform the requesting party in writing of their decision and the reasons for any denial.

### 6.4. DISCLOSURES AND CONFIDENTIALITY

- (a) All Complaints and related information will be kept confidential except where:
  - (i) its disclosure is necessary to effectively address the Complaint or enforce a Sanction;
  - (ii) it is necessary to be disclosed to law enforcement, a government or regulatory body or child protection agency;
  - (iii) its disclosure is required by applicable law; or
  - (iv) the Complainant, Respondent and any other individual about whom the information relates consents to its disclosure.

<sup>12</sup> For example, the nominated support person or authorised representative has a conflict of interest (such as also being a witness to the alleged conduct), is actively hindering the process or has history of disruptive behaviour or otherwise where there are concerns about confidentiality, or the potential for undue influence.

- (b) Subject to this clause:
  - (i) parties subject to the Complaint will be kept reasonably informed and updated about the Complaint process;
  - (ii) decisions around appropriate disclosure of information about a Complaint, including to the Complainant, will be made on a case-by-case basis. Information may not be disclosed at all, or disclosure may be restricted, to parties who are not, or have not been, directly affected by the alleged conduct.
- (c) For the avoidance of doubt, sharing information about a Complaint between Relevant Organisations, such as between Clubs, Member Unions or Rugby AU, on a need to know basis in good faith will not constitute a breach of confidentiality under this Code.

## 7. INITIAL ASSESSMENT

### 7.1. IS THE COMPLAINT WITHIN SCOPE?

- (a) The Complaint Handler determines whether a Complaint is within the scope of this Code. In making this determination, the Complaint Handler:
  - (i) will consider whether the alleged conduct would, if true, constitute Prohibited Conduct by a Relevant Person or Relevant Organisation; and
  - (ii) may undertake any Investigations they consider necessary or appropriate.
- (b) If the Complaint Handler determines that a Complaint is not within the scope of this Code, they will notify the Complainant and no further action will be taken under the Code. However, the Complaint may still be addressed under another relevant policy of a Relevant Organisation (for example, Rugby AU's Registration Regulations<sup>13</sup>).
- (c) A Complaint that has already been addressed through a complaints process will not be reconsidered or reinvestigated unless compelling reasons justify such action. This includes situations where new information becomes available that would likely have materially changed the Complaint's outcome.

### 7.2. DETERMINING THE COMPLAINT CATEGORY

- (a) If a Complaint falls within the scope of the Code, the Complaint Handler will apply Rugby AU's Case Categorisation to determine the appropriate way to handle it. Complaints are categorised as Low, Moderate or High, having regard to:
  - (i) the nature of the alleged conduct;
  - (ii) the seriousness of the alleged conduct;
  - (iii) the possible level of harm (or potential harm); and

<sup>13</sup> See: <https://australia.rugby/participate/rugby-administration/registration> and <https://d26phqdbpt0w91.cloudfront.net/NonVideo/17a252a9-6f73-4941-a088-4fa8148994ab.pdf>.

- (iv) the complexity of the issues involved in the Complaint.
- (b) A Complaint may be re-categorised where the information no longer supports the initial categorisation.
- (c) For Low Complaints, the Complaint will be closed without any formal findings or Sanctions being imposed. However, the Respondent may be reminded of their obligations under the Code or relevant Eligible Policy, counselled about how to comply with the Expected Standards of Behaviour and/or recommended to complete relevant education or training.
- (d) For Moderate or High Complaints (including after re-categorisation), any one or a combination of the following actions may be undertaken:
  - (i) Provisional Action;
  - (ii) Investigation; and/or
  - (iii) Alternative Dispute Resolution.

### 7.3. WHEN TO ESCALATE A MATTER TO RUGBY AU

- (a) A Complaint must be escalated by the Relevant Organisation to Rugby AU if it involves:
  - (i) egregious or criminal conduct, such as Sexual Abuse;
  - (ii) doping; or
  - (iii) match fixing or corruption.
- (b) If a Complaint is escalated to Rugby AU, it may handle the Complaint or direct that the Complaint be handled by another Relevant Organisation in accordance with the process set out in clause 6.2(c).

### 7.4. EXTERNAL REFERRAL

- (a) A Complaint may be referred to a relevant external organisation or authority at any time during the Complaint process if it will assist that organisation or authority to exercise any of its functions, duties or powers, regardless of whether it is a Low, Moderate or High Complaint.
- (b) A referral may include a referral to law enforcement, a government or regulatory authority or child protection agency. If a child is at risk of immediate harm, the Relevant Organisation managing the Complaint must report the matter to the relevant law enforcement/child protection agency as soon as practicable.<sup>14</sup>
- (c) Any referral should be made as soon as possible. All actions under this Code regarding the Complaint should promptly be paused pending external resolution or while seeking advice from the relevant external organisation or authority to avoid any potential compromise to their external process.

<sup>14</sup> Nothing in this provision overrides or diminishes the reporting obligations set out in Rugby AU's Child and Young Person Safeguarding Policy or the mandatory reporting obligations that exist at law: <https://aifs.gov.au/resources/resource-sheets/mandatory-reporting-child-abuse-and-neglect>.



## 8. PROVISIONAL ACTION

- 8.1. If, in the Complaint Handler's opinion, an allegation, or information obtained during the course of an investigation:
  - (a) relates to child abuse; and/or
  - (b) has resulted in, may result in, or cause, the Respondent to be charged with a serious criminal offence (that is, an offence under any Commonwealth or State/Territory law that carries a maximum penalty of 5 years imprisonment or more); and/or
  - (c) suggests a further or ongoing risk of harm being suffered by one or more Relevant Persons,

the Complaint Handler must determine whether to take any Provisional Action against the Respondent, including to mitigate any potential harm to any person or persons and/or interference in an investigation and/or to protect the reputation of Rugby AU, any Relevant Organisation or the Game.
- 8.2. Provisional Action may include a range of measures, such as suspending or standing the Respondent down from any role, duties or involvement in any Activity, temporarily re-deploying them, or suspending or restricting their rights, privileges or benefits. The Complaint Handler has the authority to amend the terms of any Provisional Action at any time to ensure it remains justified and proportionate to the perceived risks and aims.
- 8.3. Provisional Action will be on an interim basis until the Complaint process under the Code is complete (including any Appeal) or until the Complaint Handler decides to lift the Provisional Action if they believe it is no longer justified.
- 8.4. If Provisional Action is imposed, a Respondent may request a review by a Code of Conduct Committee, but only on the grounds that the action is disproportionate to the perceived risks and aims. The Code of Conduct Committee's review is limited to the decision to impose the Provisional Action and cannot consider the merits of the Complaint except to the extent necessary to assess the proportionality of the action taken.

## 9. INVESTIGATION

- 9.1. The Complaint Handler is responsible for investigating and gathering evidence to determine whether the alleged Prohibited Conduct constitutes a breach of the Code or an Eligible Policy<sup>15</sup>.
- 9.2. The Complaint Handler may appoint one or more investigating officer(s) with suitable expertise or experience in conducting investigations to assist with or fully conduct the

<sup>15</sup> To clarify, the Complaint Handler and the investigating officer can be the same person.

investigation on their behalf. Such investigating officer(s) will have the same power to investigate the matter as the Complaint Handler.

- 9.3. The Complaint Handler (or the appointed investigating officer(s)) has complete discretion to conduct the investigation in any manner they deem appropriate. This may include:
- (a) obtaining further information from the Complainant, including through interviews, written statements or requests for additional documents and materials;
  - (b) interviewing the Respondent and/or requiring a written statement from them outlining their response to the Complaint; and
  - (c) speaking to witnesses and/or obtaining statements or other evidence from them.
- 9.4. Investigations must be conducted in accordance with the rules of procedural fairness, including by providing both the Complainant and the Respondent with a reasonable opportunity to be heard. Further, the Respondent will be entitled to know the Complainant's identity if that information is necessary for them to properly respond to the allegations.

## **10. STANDARD OF PROOF**

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- 10.1. When determining whether Prohibited Conduct has occurred, the standard of proof is the "balance of probabilities". This means the decision-maker must be satisfied that it is more likely than not that a breach of the Code or an Eligible Policy has occurred.
- 10.2. If a Respondent has been convicted or found guilty in a criminal, disciplinary or professional proceeding of conduct which would constitute Prohibited Conduct under this Code, the Respondent will be deemed to have committed the breach without the need for further investigation or proof.

## **11. ALTERNATIVE DISPUTE RESOLUTION**

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- 11.1. This clause 11 applies to Moderate or High Complaints only, where the Complainant is, has been, or will be, directly affected by the alleged conduct. Subject to clause 11.6, Alternative Dispute Resolution provides an opportunity for the parties involved to be heard and reach a mutually agreeable resolution without the need for formal action.
- 11.2. At any time after determining that a Complaint is within scope of the Code but before deciding whether to issue a Breach Notice in accordance with clause 12.2, the Complaint Handler may seek consent from both the Complainant and Respondent to pursue Alternative Dispute Resolution. Even if such consent is not sought, the Complainant and Respondent may still agree to pursue Alternative Dispute Resolution to resolve the Complaint.
- 11.3. The Complaint process may be suspended while the parties engage in Alternative Dispute Resolution.

- 11.4. When necessary, the Complaint Handler will coordinate the Alternative Dispute Resolution process. This may involve arranging for a neutral third-party mediator, if deemed appropriate.
- 11.5. Subject to clause 11.6, if the parties (Complainant and Respondent):
- (a) are satisfied that the Complaint has been resolved, the Complaint process may be discontinued; or
  - (b) cannot reach a resolution and the Complainant wishes to:
    - (i) proceed, the Complaint process will resume or continue; or
    - (ii) withdraw the Complaint in accordance with clause 5.6, the Complaint process may be discontinued.
- 11.6. Even if both parties have resolved the matter or agreed for the Complaint to be closed in accordance with clauses 11.5(a) or 11.5(b)(ii), the Relevant Organisation with jurisdiction for the matter retains the authority to proceed with the Complaints process in accordance with this Code. This applies if the Relevant Organisation reasonably believes that further action and/or a Sanction is necessary and appropriate<sup>16</sup>.

## **12. FINDINGS AND BREACH NOTICE**

### **12.1. FINDINGS**

- (a) After conducting an investigation, the Complaint Handler must determine, based on the requisite standard of proof required by clause 10, whether the allegation of Prohibited Conduct is:
  - (i) substantiated – the evidence supports the allegation;
  - (ii) unsubstantiated – the evidence does not support the allegation; or
  - (iii) unable to be substantiated – there is insufficient evidence to determine whether the allegation is supported.
- (b) If the Complaint Handler determines that the alleged Prohibited Conduct is unsubstantiated or unable to be substantiated, they will notify the Complainant of the decision and the reasons for it and no further action will be taken.
- (c) A Complainant may only seek a review of a decision to take no further action under clauses 12.1(a) and (b) if:
  - (i) the Complainant provides a written notice (including the grounds for their request) to the Relevant Organisation responsible for managing the Complaint; and

<sup>16</sup> For guidance, an example where a Relevant Organisation might form a reasonable view is where the Complaint relates to a serious breach of the Child and Young Person Safeguarding Policy and the resolution reached between the parties does not adequately address the breach and therefore further action and/or a Sanction would be necessary and appropriate.

- (ii) the CEO or President (or their designated nominee) of that Relevant Organisation determines in their absolute discretion that the matter warrants further review because either:
  - (1) there has been gross inadequacy in the investigation process; or
  - (2) a gross miscarriage of justice or failure to afford procedural fairness has occurred.
- (d) If the CEO or President (or their designated nominee) of the Relevant Organisation determines that the matter should be reviewed, a new Complaint Handler will be appointed to conduct the review.
- (e) For the avoidance of doubt:
  - (i) procedural irregularities or minor defects in the investigation process do not automatically qualify as grounds for a review. To warrant a review, there must be evidence of gross inadequacy in the investigation process, a gross miscarriage of justice, or a significant failure to afford procedural fairness; and
  - (ii) any person involved in deciding whether to review the matter or those conducting the review itself must be impartial and free of any conflict of interest.

## 12.2. BREACH NOTICE

- (a) If the Complaint Handler determines that the allegation of Prohibited Conduct is substantiated, the Complaint Handler must:
  - (i) determine the proposed Sanction in accordance with clause 18 that would, in their opinion, be reasonably likely to apply if the Prohibited Conduct was proven; and
  - (ii) determine a discounted (reduced) Sanction, if any, to offer the Respondent if they admit to the Prohibited Conduct.
- (b) The Complaint Handler must issue the Respondent with a Breach Notice (either in the form provided in **Appendix 2** or in a form provided by a Relevant Organisation).
- (c) The Breach Notice must:
  - (i) include a description of the alleged breach(es) of the Code or Eligible Policy, including the specific conduct and the relevant provision(s) allegedly breached;
  - (ii) state the proposed Sanction for the alleged breach(es) with reasons for such determination, and if applicable, any proposed discounted Sanction;
  - (iii) state that the conduct and Sanction may be publicly disclosed;
  - (iv) state that the Respondent has the right to a hearing before a Code of Conduct Committee in relation to the alleged breach(es) and/or the proposed Sanction;

- (v) state that the Respondent can admit the alleged breach(es), waive their right to a hearing and accept either the proposed Sanction or the discounted Sanction (if applicable);
  - (vi) state that if the Respondent fails to respond within 14 days from the date of the Breach Notice, they will be deemed to have admitted the alleged breach(es), waived their right to a hearing and accepted the proposed Sanction; and
  - (vii) state that any response to the Breach Notice must be made to the Relevant Organisation and provide the Respondent with the Complaint Handler's contact details.
- (d) In addition, the Complaint Handler will provide a copy of the Breach Notice to the Complainant and any other Relevant Person and/or Relevant Organisation that the Complaint Handler, acting in good faith, deems necessary and appropriate.

### **12.3. RESPONDING TO A BREACH NOTICE**

- (a) In response to a Breach Notice, the Respondent may:
  - (i) admit the alleged breach(es), waive their right to a hearing and accept the proposed Sanction or proposed discounted Sanction (if applicable); or
  - (ii) dispute the alleged breach(es) and/or proposed Sanction, in which case the allegations will be referred to a Code of Conduct Committee hearing.
- (b) Unless otherwise agreed by the Complaint Handler, a Respondent has 14 days from the date of the Breach Notice to notify the Complaint Handler in writing of their decision.
- (c) If the Respondent fails to respond in accordance with clause 12.3(b), they will be deemed to have admitted the alleged breach(es), waived their right to a hearing and accepted the proposed Sanction.

## **13. RESOLUTION WITHOUT A HEARING**

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If a Respondent admits the alleged breach(es), waives their right to a hearing and accepts the proposed Sanction or the proposed discounted Sanction (if applicable), or is deemed to have done so by not responding to the Breach Notice, the Complaint Handler must take all necessary steps to impose and implement the Sanction (if applicable) and proceed to finalise the Complaint in accordance with clause 19.

## **14. RESOLUTION AT A HEARING**

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- 14.1. If the Respondent disputes any of the substantiated allegations and/or the proposed Sanction set out in the Breach Notice, the Complaint Handler must refer the matter to a Code of Conduct Committee for a hearing and a final determination.

- 14.2. Each Relevant Organisation will appoint a panel of individuals (Code of Conduct Panel) of such number as it sees fit, each of whom can be selected to sit as a member of a Code of Conduct Committee as needed.<sup>17</sup>
- 14.3. The Relevant Organisation will convene a Code of Conduct Committee when necessary to:
- (a) conduct a review in accordance with clause 8.4 to determine whether a decision to impose Provisional Action was disproportionate to the perceived risks and aims; or
  - (b) arbitrate a dispute regarding substantiated alleged breach(es) and/or the proposed Sanction set out in the Breach Notice.
- 14.4. The Code of Conduct Committee must follow the procedures set out in clause 16.

## 15. CODE OF CONDUCT COMMITTEE

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- 15.1. A Code of Conduct Committee must, subject to clause 15.3, consist of three members from the Code of Conduct Panel. To ensure impartiality and avoid conflicts of interest, the Relevant Organisation may appoint members to the Code of Conduct Committee from the Code of Conduct Panel of another Relevant Organisation, if necessary.
- 15.2. The Code of Conduct Committee must be chaired by a person who:
- (a) is a current or retired legal practitioner of at least three years standing or a serving or retired judge; or
  - (b) has the appropriate training or experience as defined by the Relevant Organisation responsible for handling the matter; and
  - (c) meets any additional requirements, including training qualifications or rugby experience, as prescribed by the Relevant Organisation.
- 15.3. Where circumstances make it necessary, a Code of Conduct Committee may be formed with fewer than three members so long as the chairperson meets the appointment criteria set out in clause 15.2.
- 15.4. Where a matter before a Code of Conduct Committee involves a Vulnerable Person as a Complainant, Respondent or witness, the Relevant Organisation will prioritise appointing Committee members with professional experience in dealing with Vulnerable Persons. These members should be equipped to provide a comfortable and safe environment and maintain an appropriate level of informality to ensure the Vulnerable Person feels supported and respected during the proceedings.
- 15.5. Code of Conduct Committees must act independently, impartially and fairly. Any Code of Conduct Committee member with an actual or potential conflict of interest in relation to the matter before the Committee must disclose the conflict. They must then act in a manner deemed appropriate by the Code of Conduct Committee, in consultation with the Relevant Organisation. This may include withdrawing from the Committee entirely to ensure the integrity of the proceedings.

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<sup>17</sup> Such individuals may also sit on Judicial Committees constituted under the Rugby Australia Disciplinary Rules or to hear matters arising under other constituent documents.

- 15.6. In exercising its jurisdiction, the Code of Conduct Committee has the power to determine that:
- (a) an alleged breach(es) of the Code or Eligible Policy has been proven and impose a Sanction in accordance with clause 18;
  - (b) an alleged breach(es) of the Code or Eligible Policy has been proven but choose not to impose a Sanction;
  - (c) an alleged breach(es) of the Code or Eligible Policy has not been proven and therefore issue no Sanction; and/or
  - (d) a breach(es) of the Code or Eligible Policy different to those outlined in the Breach Notice issued to the Respondent has been proven and impose a Sanction, provided that the Code of Conduct Committee has first put the new allegation(s) to the Respondent and provided the Respondent with a reasonable opportunity to respond to them and provide any relevant evidence in support.
- 15.7. Decisions of the Code of Conduct Committee must be by a majority vote. If there are an equal number of votes, the chairperson will have both the deciding and casting vote.

## **16. PROCEDURE OF THE CODE OF CONDUCT COMMITTEE**

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- 16.1. When the Code of Conduct Committee has been convened to address a matter, the Complaint Handler (or their designated delegate) must issue a Hearing Notice to the Respondent.
- 16.2. The Hearing Notice must:
- (a) state the date, time and location of the Code of Conduct Committee hearing;
  - (b) identity the member(s) of the Code of Conduct Committee;
  - (c) state that the Respondent is required to attend the hearing so that the allegations can be determined;
  - (d) state that the Respondent must advise the Complaint Handler as soon as practicable if they are unable to attend the hearing at the scheduled date and time and provide the reasons as to why;
  - (e) state that if the Respondent does not attend the hearing without first advising the Complaint Handler, the Code of Conduct Committee may determine the matter in the Respondent's absence if it is satisfied that the Respondent received sufficient written notice of the hearing;
  - (f) state that the Respondent has the right to legal representation at the hearing and may be accompanied by a support person with the Code of Conduct Committee's prior approval; and

- (g) state that the Respondent has the right to produce evidence and make submissions in relation to the alleged breach(es) and the proposed Sanction (including arguments about whether a Sanction should be imposed and, if so, what that Sanction should be).
- 16.3. The Code of Conduct Committee has the power to regulate its own procedures, subject to the following guidelines and principles:
- (a) where reasonably practicable, hearings should be conducted within 14 days from the day the Code of Conduct Committee is convened;
  - (b) hearings should be conducted efficiently and with minimal formality as reasonably possible, considering the nature, seriousness and complexity of the matter;
  - (c) hearings must be conducted in accordance with the rules of procedural fairness;
  - (d) evidence should be presented and heard in the presence of the Respondent. Where exceptional circumstances render such presence impossible or inappropriate, the Respondent will be provided with the full substance of all such evidence;
  - (e) parties have the right to be represented at the hearing by a legal practitioner at their own expense;
  - (f) the Code of Conduct Committee's approach and hearing procedures should be adjusted to ensure the safety and wellbeing of any Vulnerable Persons participating in the hearing;
  - (g) hearings will generally be conducted in private, unless the Code of Conduct Committee determines otherwise, and may be held in-person or online at the absolute discretion of the Relevant Organisation; and
  - (h) decisions made by the Committee must be timely, provided in writing and include a clear explanation of the reasoning behind the decision.
- 16.4. The Relevant Organisation, on whose behalf the Complaint Handler has issued the Breach Notice to the Respondent, bears the responsibility of proving the alleged Prohibited Conduct. This must be proven to the "balance of probabilities" standard of proof, as required by clause 10, before the Code of Conduct Committee<sup>18</sup>.
- 16.5. The Code of Conduct Committee has the discretion to hear and receive evidence as it thinks fit. Further, it may call on experts to provide professional advice or opinions, including legal advice, as it considers necessary or appropriate to make informed decisions.
- 16.6. If a witness is requested to attend a hearing to give evidence but refuses or fails to attend, the Code of Conduct Committee may decide whether or not to allow their evidence to be given in another form and, if so, how much weight to give to that evidence.
- 16.7. The Code of Conduct Committee has the absolute discretion to decide who can attend a hearing (such as support persons), in addition to the parties and their representatives.

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<sup>18</sup> It is recommended that the Relevant Organisation that has issued the Breach Notice appoint a person to present the matter to the Code of Conduct Committee, such as a legal practitioner where considered necessary and appropriate, in accordance with clause 16.3(e).



Requests for the attendance of additional persons should be made in advance of the hearing.

- 16.8. If the Respondent fails to attend the hearing and the Code of Conduct Committee is satisfied that a Hearing Notice complying with clause 16.2 has been provided to them and they have not given due notice of their absence, the Code of Conduct Committee may proceed with the hearing and determine the matter and impose any Sanction, in the Respondent's absence. In such circumstances, the Code of Conduct Committee may take any written representations made by or on behalf of the Respondent into account in making its decision.
- 16.9. In addition to the Code of Conduct Committee's powers under clause 16.8, if a Respondent fails to attend a hearing of the Code of Conduct Committee without reasonable excuse, the Code of Conduct Committee may suspend the Respondent from participation in any Activity until such time as they attend a hearing on a revised date and time set by the Code of Conduct Committee. The Code of Conduct Committee may impose any further Sanctions as it considers appropriate as a penalty for the Respondent's failure to attend as required.
- 16.10. The Relevant Organisation is generally responsible for covering the costs associated with holding a Code of Conduct Committee hearing. This includes expenses such as travel and accommodation for Code of Conduct Committee members, witnesses and experts called by the Relevant Organisation or the Code of Conduct Committee, as well as interpretation services, recording the hearing and/or transcription costs.
- 16.11. The Respondent is responsible for their own costs including travel and accommodation, expenses related to their representatives and witnesses (excluding witnesses called by the Relevant Organisation or the Code of Conduct Committee), and any legal costs incurred.
- 16.12. At the conclusion of the hearing, the Code of Conduct Committee may deliver a short oral decision or reserve its decision. In either case, the decision of the Code of Conduct Committee must be advised to the parties and the Complainant in writing as soon as practicable after the conclusion of the hearing. This may be done by the Complaint Handler or their delegate.
- 16.13. Where a Sanction has been imposed on the Respondent by the Code of Conduct Committee in accordance with clause 18, the Respondent must be advised that they have a right of appeal to the Appeal Committee in accordance with clause 17.

## **17. APPEALS**

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### **17.1. APPEAL COMMITTEE**

- (a) Any appeal of a Code of Conduct Committee decision will be conducted by an Appeal Committee convened by the Relevant Organisation that has jurisdiction for the matter.

- (b) Each Relevant Organisation will appoint a panel of individuals of such number as it sees fit, each of whom can be selected to sit as members of an Appeal Committee (Appeal Panel) as needed.<sup>19</sup>
- (c) Subject to clause 17.1(e), an Appeal Committee must consist of three members from the Appeal Panel.
- (d) The Appeal Committee must be chaired by a person who:
  - (i) is a current or retired legal practitioner of at least three years standing or a serving or retired judge with experience as a Code of Conduct or Judicial Committee chairperson; and
  - (ii) meets any additional requirements, including training qualifications and rugby experience, as prescribed by the Relevant Organisation.
- (e) Where circumstances make it necessary, an Appeal Committee may be formed with fewer than three members so long as the chairperson meets the appointment criteria as set out in clause 17.1(d).
- (f) Where a matter before the Appeal Committee involves a Vulnerable Person as a Respondent or witness, the Relevant Organisation will prioritise appointing Committee members with professional experience in dealing with Vulnerable Persons. These members should be equipped to provide a comfortable and safe environment and maintain the appropriate level of informality to ensure the Vulnerable Person feels supported and respected during the proceedings.
- (g) Decisions of the Appeal Committee must be by a majority vote. If there are an equal number of votes, the chairperson of the Appeal Committee will have both the deciding and casting vote.
- (h) Appeal Committees must act independently, impartially and fairly. Any Appeal Committee member with an actual or potential conflict of interest in relation to the matter before the Committee must disclose the conflict. They must then act in a manner deemed appropriate by the Appeal Committee, in consultation with the Relevant Organisation. This may include withdrawing from the Appeal Committee to ensure the integrity of the proceedings.
- (i) To ensure impartiality, a person who served on the Code of Conduct Committee whose decision is being appealed cannot be appointed to the Appeal Committee reviewing that decision.

## 17.2. APPEAL PROCEDURE

- (a) A decision of the Code of Conduct Committee may only be appealed by the following (each an Appellant):
  - (i) the Respondent<sup>20</sup>;

<sup>19</sup> Such individuals may, subject to clause 17.1(h), also be included on the Relevant Organisation's Code of Conduct Panel or sit on Judicial Committees constituted under the Rugby Australia Disciplinary Rules or to hear matters arising under other constituent documents.

<sup>20</sup> Please note that a Respondent cannot appeal a decision of a Code of Conduct Committee made under clause 14.3(a) to an Appeal Committee.

- (ii) any other Relevant Person or Relevant Organisation, with approval of the Relevant Organisation with jurisdiction for the matter;
  - (iii) the relevant Member Union; or
  - (iv) Rugby AU.
- (b) An appeal must be made within seven days of the date on which the written decision was sent to the Appellant, by:
  - (i) completing an Appeal Notice (either in the form provided in **Appendix 3** or in a form provided by the Relevant Organisation) and providing it to the Relevant Organisation with jurisdiction for the matter; and
  - (ii) paying the Appeal Fee.
- (c) Unless an appeal is conducted as a completely new (de novo) hearing in accordance with clause 17.2(e), the Appellant has the responsibility to establish to the satisfaction of the Appeal Committee, on the balance of probabilities, that:
  - (i) the decision being appealed is wrong in fact or law;
  - (ii) the Sanction is manifestly excessive; and/or
  - (iii) the Sanction is manifestly inadequate.
- (d) Where reasonably practicable, an appeal should be held within fourteen days of the Appeal Notice being lodged and the Appeal Fee being paid.
- (e) The Appeal Committee has the power to order that a de novo hearing in whole or in part be conducted on appeal. A de novo hearing in whole or in part would only be appropriate where it is established that exceptional circumstances exist and it is in the interests of justice for the case to be re-heard in whole or in part. In those cases, the procedure to be adopted, the burden of proof and all evidential and other matters must proceed as if the hearing was a first instance hearing before a Code of Conduct Committee<sup>21</sup>.
- (f) The Appeal Committee's approach and hearing procedures should be adjusted to ensure the safety and wellbeing of any Vulnerable Persons participating in the hearing.
- (g) Subject to clause 21.4, a decision of the Appeal Committee is final and may not be appealed further under the Code.
- (h) Any Sanction imposed at first instance by the Code of Conduct Committee will be upheld until the appeal has been determined by the Appeal Committee.
- (i) In determining an appeal (that is not heard de novo), the Appeal Committee:
  - (i) if it is not satisfied that one of the grounds in clause 17.2(c) has been established, may dismiss the appeal and affirm the Code of Conduct Committee's decision;

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<sup>21</sup> The decision of an Appeal Committee dealing with a *de novo* appeal hearing is final and may not be appealed further by the appellant.

- (ii) if it finds some form of legal, procedural or factual error but takes the view that this would not have impacted the Code of Conduct Committee's decision or given rise to a gross miscarriage of justice or procedural unfairness, it may dismiss the appeal and affirm the Code of Conduct Committee's decision; or
  - (iii) if it is satisfied that one or more of the grounds specified in clause 17.2(c) is established, may vary, reverse or set aside the Code of Conduct Committee's decision, in whole or in part, and substitute its own decision and/or Sanction.
- (j) The Appeal Committee's decision must be advised to the parties in writing as soon as practicable after the conclusion of the appeal hearing.
- (k) The Appeal Committee has the discretion to order that the Relevant Organisation with jurisdiction for the matter reimburse all or part of any Appeal Fee paid by the Appellant.

## 18. SANCTIONS

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- 18.1. When a Respondent is found to have breached the Code, the Complaint Handler, Code of Conduct Committee and Appeal Committee (whichever is applicable) has absolute discretion to determine the appropriate Sanction to be imposed on the Respondent, including whether to impose a single Sanction or a combination of measures, and the terms and the period of any such measures. For the avoidance of doubt, this clause 18 also applies to the Complaint Handler in determining a proposed Sanction or proposed discounted Sanction in accordance with clause 12.2(a).
- 18.2. Without limiting the discretion in clause 18.1, the Sanction will be determined by having regard to:
- (a) first, the seriousness of the conduct or incident, taking into account the factors set out in clause 18.4 as relevant; and
  - (b) second, any relevant aggravating and mitigating factors as set out in clause 18.5.

### 18.3. AVAILABLE SANCTIONS

Without limiting the discretion in clause 18.1, Sanctions that may be imposed include, but are not limited to:

- (a) a reprimand and/or warning as to future conduct;
- (b) a direction to provide a verbal or written apology;
- (c) a direction to undertake training, education and/or counselling;
- (d) a financial penalty;
- (e) a suspended sanction and/or good behaviour period;
- (f) placing conditions on or the removal of accreditation;
- (g) removal or withdrawal of awards or achievements (such as life membership);

- (h) suspension or expulsion from membership from a Relevant Organisation;
- (i) suspension or exclusion from specific or all Activities for a set period of time (for example: from playing, officiating, coaching and/or administration of the Game);
- (j) a deduction or cancellation of points, or any similar competition or tournament-based sanction including expulsion from the remainder of a competition, tournament and/or series of matches;
- (k) exclusion from a Relevant Organisation's grounds and/or facilities;
- (l) a suspension for a specified period and/or termination of any rights, privileges or other benefits of membership with the Relevant Organisation; and/or
- (m) any other form of discipline that is considered appropriate.

#### **18.4. ASSESSING THE SERIOUSNESS OF PROHIBITED CONDUCT**

- (a) Without limiting the discretion in clause 18.1, in determining the seriousness of the Prohibited Conduct under clause 18.2(a), the following factors must be considered:
  - (i) the nature and gravity of the conduct;
  - (ii) the impact on any Relevant Person or Relevant Organisation, including any personal, professional or financial consequences;
  - (iii) whether the conduct constituted an isolated incident or formed part of an overall pattern of behaviour;
  - (iv) the degree to which the conduct was intentional or an honest and reasonable mistake;
  - (v) the degree to which the consequences of the conduct were reasonably foreseeable at the time it occurred;
  - (vi) the degree to which the conduct may have caused offence to the general public's sensibilities;
  - (vii) the potential impact the conduct may have on public confidence in the integrity of the Game;
  - (viii) the potential or actual reputational damage to any Relevant Person, Relevant Organisation or Activity the conduct caused; and
  - (ix) any other relevant factor.

#### **18.5. AGGRAVATING AND MITIGATING FACTORS**

- (a) Without limiting the discretion in clause 18.1, the following aggravating and mitigating factors must be considered under clause 18.2(b):
  - (i) the presence and timing of the Respondent's acknowledgement of culpability and/or wrongdoing (if any);
  - (ii) any relevant disciplinary record and/or good character of the Respondent;

- (iii) the Respondent's conduct prior to and at the hearing (including the level of respect shown to the Complaint Handler and any other person with responsibilities of enforcing the Code in relation to the Complaint<sup>22</sup>);
- (iv) the Respondent's remorse or lack thereof, including the timing of such remorse and any remedial actions taken by the Respondent;
- (v) any relevant prior warnings provided to the Respondent;
- (vi) any directives provided by a Relevant Organisation (for example, around match official abuse<sup>23</sup> as relevant);
- (vii) any Provisional Action taken in relation to the Respondent; and
- (viii) any other aggravating or mitigating factors.

18.6. If there is more than one breach of the Code or an Eligible Policy, where appropriate, the Sanction may be imposed having regard to all the breaches considered together, and the seriousness of the overall conduct or incident in question.

18.7. Sanctions imposed under the Code commence from the date of the decision, unless otherwise directed.

## 19. FINALISING A COMPLAINT

### 19.1. WHEN A COMPLAINT MAY BE FINALISED AND CLOSED

- (a) A Complaint will be finalised and may be closed under this Code when:
  - (i) it is evaluated as being out of scope of this Code under clause 7.1;
  - (ii) it is considered to be Low in accordance with clause 7.2(c) and no further action is being taken;
  - (iii) the Complainant has withdrawn it in accordance with clause 5.6 and the Relevant Organisation has decided not to proceed with the Complaints process;
  - (iv) the Complaint Handler determines it no longer meets the eligibility requirements set out in clause 5 (for example, where subsequent information reveals the Respondent was not bound by the Code when the alleged conduct occurred);
  - (v) it is resolved through Alternative Dispute Resolution in accordance with clause 11 and the Relevant Organisation has decided not to proceed with the Complaints process;
  - (vi) following investigation, all allegations are found to be either unsubstantiated or unable to be substantiated in accordance with clause 12.1;

<sup>22</sup> Note that the level of disrespect shown may not be taken into account as an aggravating factor if the Prohibited Conduct is for that same disrespect. The level of disrespect should, however, still be taken into account when determining seriousness.

<sup>23</sup> Match Official abuse can take many forms, ranging from disrespect, causing offense, to causing someone physical or mental pain or distress.

- (vii) following investigation, the Respondent accepts, or is deemed to have accepted, the findings and any Sanction imposed in accordance with clause 12.3; or
  - (viii) the matter is determined by a Code of Conduct Committee or Appeal Committee.
- (b) Once a matter has been finalised in accordance with this clause, it is considered closed and no further action will be taken in relation to it under this Code unless there is a compelling reason to do so.
  - (c) The Relevant Organisation will retain appropriate records of the Complaint and any outcomes in accordance with any relevant policies or procedures relating to record-keeping.

## 19.2. NOTIFYING PARTIES OF THE OUTCOME

- (a) The Complaint Handler will maintain appropriate and reasonable communication with the Respondent, Complainant and any Relevant Organisation involved in the matter throughout the Complaints process.
- (b) When a Complaint is finalised, the Complaint Handler will notify the Complainant and the Respondent in writing of the outcome and that the matter is closed.
- (c) If the Complaint arose at the district, competition or Club level, the Complaint Handler must notify the relevant Member Union.

## 20. RECOGNITION OF DECISIONS

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- 20.1. Rugby AU may, in consultation with Member Unions as required, recognise decisions, sanctions and/or other disciplinary measures imposed by public authorities, other sporting bodies and/or other properly constituted bodies against any Relevant Person or Relevant Organisation for conduct that would constitute a breach(es) of this Code or an Eligible Policy.
- 20.2. Rugby AU retains absolute discretion to recognise such decisions or sanctions in whole or in part and may modify any Sanction to be imposed pursuant to such recognition as it deems necessary and appropriate in the circumstances.
- 20.3. Any decision or sanction recognised or imposed by Rugby AU under this clause 20 will take immediate effect and be binding across all levels of the Game (without the need for further formality). Member Unions must take all necessary action to implement and give effect to or enforce such decision and/or Sanction (subject to compliance with any applicable laws).
- 20.4. No procedural requirements or time limitations will apply to Rugby AU's exercise of its recognition powers under this clause.

## 21. MISCELLANEOUS PROVISIONS

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### 21.1. IMPLEMENTATION

- (a) Relevant Organisations must ensure that appropriate Sanctions (or other alternative remedial measures) are undertaken, and that the Code is enforced and applied consistently.
- (b) Relevant Organisations will determine whether public disclosure of a Sanction is necessary to give it full effect, particularly where the Sanction involves suspension or cancellation of membership or accreditation.
- (c) Neither lack of awareness nor misunderstanding of this Code or any relevant Eligible Policy will constitute a valid defence against or justification for Prohibited Conduct. Ignorance of this Code or relevant Eligible Policy will not be considered a mitigating circumstance when determining Sanctions. All Relevant Persons and Relevant Organisations are responsible for familiarising themselves with and complying with the provisions of the Code and all Eligible Policies.

### 21.2. PUBLICATION OF DECISIONS

- (a) A Relevant Organisation may publish (including on its website or other media) the outcomes of a Complaint including reports of any proceeding or written decision of a Code of Conduct Committee or Appeal Committee (in full or in a redacted form) and any supporting evidence, even if such publication could reflect adversely on the character or conduct of any Relevant Person, Relevant Organisation or other person.
- (b) All Relevant Persons and Relevant Organisations are deemed to have provided their full and irrevocable consent to such publication.

### 21.3. UNFORESEEN CIRCUMSTANCES

If a particular issue or set of circumstances arises for which there is no provision in the Code, then a Code of Conduct Committee or Appeal Committee may take such action as is considered appropriate in the circumstances in accordance with general principles of natural justice and fairness.

### 21.4. POWER OF REVIEW

- (a) Rugby AU's Head of Integrity, or their nominee, may refer any matter to a Rugby AU appointed tribunal for review where they determine that there has been a failure on behalf of any Complaint Handler, Relevant Organisation, Code of Conduct Committee or Appeal Committee in applying the Code resulting in serious error, injustice or unfairness.
- (b) If the Rugby AU appointed tribunal determines that there has been a failure to properly apply the Code, resulting in serious error, injustice or unfairness, the tribunal may take such action it deems necessary in the circumstances to rectify the improper application of the Code, including but not limited to rehearing a matter,



making relevant findings or imposing appropriate Sanctions. The decision of the tribunal is final and binding, with no further right of appeal.

## 21.5. RETENTION OF CODE OF CONDUCT INFORMATION/DISCIPLINARY RECORDS

- (a) The Relevant Organisation must retain the Complaint and all associated material for a minimum period of five years in all instances where a Complaint has been received but has not resulted in either an admission or finding of a breach of the Code or an Eligible Policy.
- (b) Where a breach of the Code or an Eligible Policy has been admitted or proven following a Complaint to a Relevant Organisation, such Relevant Organisation must retain the Complaint and all associated material for a minimum period of ten years.
- (c) The Relevant Organisation with jurisdiction for dealing with the matter must maintain a comprehensive record of all admissions or findings of breach of the Code or an Eligible Policy, including all Sanctions imposed on a Relevant Person or Relevant Organisation, for a minimum period of ten years<sup>24</sup>.
- (d) In determining any Sanction in disciplinary proceedings, the Complaint Handler, Code of Conduct Committee or Appeal Committee (as applicable) may, in its discretion, take into account the prior disciplinary history of the Relevant Person or Relevant Organisation under this Code to the extent deemed relevant and appropriate in the circumstances.

## 21.6. CLEMENCY FOR LONG-TERM SANCTIONS

- (a) A Relevant Person subject to a Long-Term Sanction may apply for clemency to the Relevant Organisation that imposed the Sanction after serving a minimum of eight years of the suspension.
- (b) Upon receipt of such application, the Relevant Organisation must refer the matter to a Code of Conduct Committee which may, in its absolute discretion, determine reinstatement is appropriate and, if so, specify the capacity in which and/or conditions under which the Relevant Person may resume participation in any Activity. The determination of the Code of Conduct Committee will be final and binding, with no further right of appeal.

## 21.7. EDUCATION

- (a) Rugby AU is committed to ensuring all Relevant Organisations and Relevant Persons are afforded the opportunity to improve their understanding of this Code and their rights and responsibilities under it and will develop an education plan to reflect this.
- (b) Rugby AU will make education modules related to the Code as well as the Child and Young Person Safeguarding Policy available to all Participants.

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<sup>24</sup> Where an alleged breach is submitted or managed in Salesforce, then all documents and records of all steps taken must be included and retained in Salesforce by the Relevant Organisation.

- (c) A Relevant Organisation may require certain Participants to complete education and training, which will be relevant and proportionate to their level of participation in the Game and the associated integrity risks.

## APPENDIX 1 – DEFINITIONS

In this Code, the following words have the corresponding meaning:

**Activity** means any rugby-related activity (including any contest, match, competition, tournament, event or training) sanctioned or organised by a Relevant Organisation.

**Ageist** means demonstrating prejudice, discrimination or antagonism towards or about a person or group of people on the basis of their age.

**Alternative Dispute Resolution** refers to a range of processes, excluding arbitration, that may be used to resolve disputes or conflicts concerning allegations of Prohibited Conduct under this Code. These processes, such as mediation or conciliation, can range from informal discussions where parties share their perspectives and find a mutually agreeable solution to more structured approaches facilitated by a neutral third party.

**Appeal Committee** means the tribunal established in accordance with clause 17.

**Appeal Fee** means the amount of money a Relevant Person or Relevant Organisation must pay to the Relevant Organisation responsible for the hearing in order to appeal a Committee Decision, or a decision of a Complaint Handler to take no further action regarding a Complaint. The amount may be subject to GST. If a Relevant Organisation does not specify the amount, the default amount is AUD\$250 (including GST). The Relevant Organisation may review the Appeal Fee from time to time.

**Bullying** means the repeated and intentional use of words or actions, or the misuse of power, by an individual or group against another individual or group that causes distress and/or poses a risk to their wellbeing.

**By-Laws** means any by-laws published by World Rugby or Rugby AU, as amended from time to time.

**Club** means any club that enters a Team to participate in an Activity.

**Code or Code of Conduct** means this document, known as the Rugby Australia Code of Conduct.

**Code of Conduct Committee** means the tribunal established in accordance with clause 15.

**Complaint** has the meaning given in clause 5.1(a).

**Complainant** has the meaning given in clause 5.2.

**Complaint Handler** means the person(s) appointed by a Relevant Organisation who is responsible for the administration of the Code within their jurisdiction which includes receiving and investigating Complaints, determining breaches of the Code of Conduct, imposing sanctions, and maintaining accurate records related to the Code.

**Contractor** means any person or organisation engaged to provide services for or on behalf of a Relevant Organisation, and includes agents, advisers, and subcontractors of a Relevant Organisation and employees, officers, volunteers, and agents of a contractor or subcontractor.

**Disablist** means demonstrating prejudice, discrimination or antagonism towards or about a person or a group of people on the basis of their disability.

**Discrimination** includes both direct and indirect discrimination (either in-person or online) which have the following meaning:

- (a) 'direct discrimination' occurs when a person is treated less favourably than a person in the same or similar circumstances, and that less favourable treatment is because of a Protected Characteristic.
- (b) 'indirect discrimination' occurs when a practice, rule, requirement or condition applies to everyone but it: (1) disproportionately disadvantages people with a Protected Characteristic; and (2) is unreasonable in the circumstances.

**Eligible Policy** means a Rugby AU policy that provides for alleged breaches of that policy to be dealt with under, or in accordance with, the Code.

**Emotional (Psychological) Abuse** means any act, behaviour or pattern of conduct that may diminish a person's sense of identity, dignity or self-worth or may cause emotional or mental harm. This can include, but is not limited to, verbal abuse, repeated criticism and rejection, gaslighting, social exclusion, confinement, threats and intimidation, bullying and humiliation and financial abuse.

**Employee** means a person employed by a Relevant Organisation.

**Expected Standards of Behaviour** means the behaviours set out in clause 3.

**Game** means rugby union.

**Harassment** means any type of unwelcome physical, verbal or sexual conduct directed towards a person that is reasonably likely to cause harm or distress or make the person feel offended, humiliated and/or intimidated.

**Homophobic** means demonstrating prejudice, discrimination or antagonism towards or about a person or group of people who are not heterosexual.

**Illegal Drug** means any substance:

- (a) listed in Schedule 9 or 10 of the current Commonwealth Poisons Standard;
  - (b) listed in Schedule 1 of the *Criminal Code Regulations 2019* (Cth); or
  - (c) proscribed under any applicable state or territory legislation,
- each as amended from time to time.

**Individual Member** means an individual who is registered with, or a member of, a Relevant Organisation.

**Judicial Committee** means a tribunal convened under the Rugby AU Disciplinary Rules.

**Laws of the Game** means the Laws of the Game published by World Rugby, as amended from time to time.

**Long-Term Sanction** means a suspension from participating in the Game for a period of eight years or more.

**Member** means a Relevant Organisation or an Individual Member.

**Participant** means any of the following individuals:

- (a) **Players:** those registered, or entitled to play, with a Relevant Organisation or in any Activity;
- (b) **Coaches:** those appointed to train Player(s) or Team(s) within a Relevant Organisation or in any Activity;
- (c) **Administrators:** those involved in the administration or operation of a Relevant Organisation or any Activity, including owners, directors, committee members or other persons;
- (d) **Officials:** those appointed by a Relevant Organisation or any league, competition, series, Club or Team sanctioned by a Relevant Organisation including referees, citing commissioners, television match officials, match managers, ground marshals, or other officials;
- (e) **Support Personnel:** those appointed in a professional or voluntary capacity by a Relevant Organisation or in any Activity including, but not limited to, sports science and/or sport medicine personnel, Team managers and staff, agents and selectors; and
- (f) **Other individuals:** those attending Activities, match venues or other facilities, including parents, guardians, spectators and sponsors.

**Personal Grievance** means a dispute or conflict between two or more individuals or body corporates that does not involve an alleged breach of the Code or an Eligible Policy.

**Physical Abuse** occurs when a person subjects another person to an application of physical force, which may cause injury intentionally or inadvertently as a result of physical punishment or the aggressive treatment of a person and for the avoidance of doubt, includes any form of physical assault.

**Prohibited Conduct** means any conduct described in clauses 3, 4 or 5.4 of this Code and any conduct prohibited under an Eligible Policy.

**Protected Characteristic** means:

- a) age;
- b) disability or health status such as HIV/AIDS status;
- c) race or ethnicity;
- d) sex or intersex status;
- e) gender identity;
- f) sexual orientation;
- g) religion or religious beliefs;
- h) political affiliation or political beliefs.

**Protected Disclosure** means, where a Relevant Organisation is a "regulated entity" under the whistleblower laws in the *Corporations Act 2001* (Cth), a disclosure of information to the Relevant Organisation that qualifies for protection under those laws.

**Provisional Action** means action taken in accordance with clause 8.

**Racist** means demonstrating prejudice, discrimination or antagonism towards or about a person or group of people on the basis of their race or ethnicity.

**Regulations** means any regulations published by World Rugby or Rugby AU, as amended from time to time.

**Relevant Organisation** means any of the following organisations:

- (a) **Rugby AU;**
- (b) **Member Unions**<sup>25</sup>;
- (c) **Affiliated Unions**<sup>26</sup>;
- (d) **Rugby Bodies**<sup>27</sup>; and
- (e) **Any other organisation** that has agreed to be bound by this Code.

**Relevant Person** means any of the following persons:

- (a) **Individual Member;**
- (b) **Participant;**
- (c) **Employee;**
- (d) **Contractor;**
- (e) **Volunteer;** and
- (f) **Any other individual** who has agreed to be bound by this Code.

**Respondent** has the meaning given in clause 5.5.

**Rugby AU** means Rugby Australia Ltd (ACN 002 898 544).

**Sanction** means the disciplinary action(s) imposed upon a Respondent for breaching this Code or an Eligible Policy, as determined in accordance with clause 18.

**Sexist** means demonstrating prejudice, discrimination or antagonism towards or about, or the stereotyping of, a person or group of people on the basis of their gender.

**Sexual Abuse** means:

- (a) any act of a sexual nature that a person suffers, submits to, participates in, or performs as a result of force or violence, threats, fear or deception; and

<sup>25</sup> Member Unions include Australian Capital Territory and Southern New South Wales Rugby Union Limited; New South Wales Rugby Union Ltd; Northern Territory Rugby Union Incorporated; Queensland Rugby Union Ltd.; South Australian Rugby Union Limited; Tasmanian Rugby Union Inc.; Victorian Rugby Union Inc.; Western Australia Rugby Union and any other body that becomes a "Member Union" pursuant to the terms of the Rugby AU Constitution, as amended from time to time.

<sup>26</sup> The Affiliated Unions include Australian Schools Rugby Union; Australian Defence Force Rugby Union; Australian Universities Rugby Union; Australian Barbarian Rugby Club; Classic Wallabies; and any other body that becomes an "Affiliated Union" pursuant to the terms of the Rugby AU Constitution, as amended from time to time.

<sup>27</sup> Rugby Body means Rugby AU, each Member Union and Affiliated Union, any union, association or other body in membership with or affiliated to a Member Union or Affiliated Union and any rugby Club in membership with or affiliated to any of the foregoing which includes each Super Rugby Licensee (as that term is defined under the Rugby AU Constitution, as amended from time to time).

(b) any act or conduct that may constitute a sexual offence in law.

**Sexual Misconduct** means sexual harassment, which is any unwanted or unwelcome sexual behaviour where a reasonable person would anticipate the possibility that the person being harassed would feel offended, humiliated, or intimidated.

**Social Media** means any digital platform or application that enables users to create, display, share, or interact with and/or upload content including, but not limited to social networking sites, content sharing platforms, messaging apps, blogs, review sites, live streaming apps, podcasts, forums, online games and other similar platforms.

**Team** means a collection or squad of Players who compete and/or train in any Activity.

**Transphobic** means demonstrating prejudice, discrimination or antagonism towards or about a person or group of people who are transgender/trans or gender diverse.

**Victimisation** means subjecting or threatening to subject a person (including on Social Media) to any unfair treatment because the person has made, or has indicated they intend to make, a complaint, report or lawful disclosure, including under applicable legislation, this Code or an Eligible Policy, or for supporting another person to take such action.

**Vilification** means a public act, conduct or behaviour (including on Social Media) that incites hatred, contempt for, or revulsion or ridicule of, a person or group of people because of a Protected Characteristic, including as may be covered by applicable legislation, as amended from time to time.

**Volunteer** means any person engaged by a Relevant Organisation or in any Activity in any capacity who is not otherwise an Employee or Contractor, including directors and office holders, coaches, officials, administrators and Team and support personnel.

**Vulnerable Person** means a person who is:

- (a) under the age of 18;
- (b) aged 18 or over but is or may be unable to take care of themselves or is unable to protect themselves against harm or exploitation, by reason of age, illness, trauma or disability, or any other reason; or
- (c) aged 18 or over but has experienced or is experiencing poor mental health, regardless of the cause, including but not limited to those from diverse backgrounds facing disproportionate mental health impacts.

## APPENDIX 2 - BREACH NOTICE

RUGBY AUSTRALIA CODE OF CONDUCT – BREACH NOTICE	
<b>1. RESPONDENT'S DETAILS</b>	
Name	
Date of Birth (if applicable)	
Address	
Email address	
<b>2. DETAILS OF COMPLAINT HANDLER DEALING WITH THE MATTER</b>	
Name	
Relevant Organisation	
<b>3. BREACHES ALLEGED</b>	
Brief summary of facts alleged	
Alleged breach(es) of the Code or Eligible Policy (including the alleged conduct or incident and the relevant section(s) of the relevant Code or Eligible Policy alleged to have been breached)	



Date and time of alleged breach(es) (if known)	
Location of occurrence of the alleged breach(es) (if known)	
<b>4. PROPOSED SANCTION</b>	
Seriousness of the breach(es) and reasons for such determination (with reference to the <a href="#">Code of Conduct Sanction Guidelines</a> as applicable)	
Proposed Sanction for the alleged breach(es) of the Code or Eligible Policy	
Proposed discounted Sanction for early admission (if determined applicable)	
<b>5. ADDITIONAL INFORMATION FOR RESPONDENT</b>	
Please note that the conduct and Sanction may be publicly disclosed by the Relevant Organisation dealing with the matter.	

<p>As the Respondent, you may admit<sup>28</sup> the alleged breach(es), waive your right to a hearing and accept the proposed Sanction or the proposed discounted Sanction (if applicable).</p> <p>If you do not respond within <b>14 days</b> from date of the Breach Notice sent to your last known address and/or email address, you will be deemed to have admitted the alleged breach(es), waived your right to a hearing and accepted the proposed Sanction.</p> <p>You have a right to a hearing in relation to the alleged breach(es) and/or the proposed Sanction before a Code of Conduct Committee.</p> <p>Any response to this Breach Notice must be made to:</p> <p><i>(Note: Relevant Organisation dealing with the matter to provide the contact details for the Complaint Handler below):</i></p>	
Name	
Email address	
Telephone number	
Date that a response to the Breach Notice is due	
<p>Please note: any response may be provided to the Complainant and any other Relevant Person and/or Relevant Organisation that the Complaint Handler deems necessary and appropriate.</p>	
<p><b>6. SIGN OFF</b></p>	
Name of Complaint Handler	
Signature of Complaint Handler	
Date	

<sup>28</sup> Where a respondent admits the alleged breach(es), waives their right to a hearing and accepts the proposed sanction or the proposed discounted sanction (if applicable), or is deemed to have done so, the Appointed Person must take all necessary steps to impose and implement the sanction and proceed to finalising the complaint.

## APPENDIX 3 – APPEAL NOTICE

RUGBY AUSTRALIA CODE OF CONDUCT – APPEAL NOTICE	
<b>1. APPELLANT'S DETAILS</b>	
Name	
Date of Birth (if applicable)	
Address	
Email address	
<b>2. DETAILS OF COMPLAINT HANDLER DEALING WITH THE MATTER</b>	
Name	
Relevant Organisation	
<b>3. DECISION DETAILS</b>	
Date of Code of Conduct Committee decision	
Breach(es) alleged by Relevant Organisation	
Copy of written decision provided by the Appellant	Yes/No
Appeal Fee Paid by Appellant	Yes/No
<b>4. WHAT IS THE APPEAL AGAINST</b>	
Is appeal against the reasons for the decision and the Sanction imposed?	Yes/No ( <b>Please provide details</b> )
Is the appeal against the Sanction imposed only?	Yes/No ( <b>Please provide details</b> )
<b>5. GROUNDS FOR THE APPEAL</b>	

With respect to the decision appealed, the grounds of appeal are:

- a) the decision is wrong in fact or law (**enter details if applicable**); and/or
  
- b) the Sanction is manifestly excessive (**enter details if applicable**); and/or;
  
- c) the Sanction is manifestly inadequate (**enter details if applicable**).

(If a *de novo* appeal hearing is sought under clause 17.2(e) – please attach a separate sheet outlining grounds relied upon).

#### 6. **ADDITIONAL INFORMATION FOR APPELLANT**

As the Appellant, you bear the onus and burden of satisfying the Appeal Committee that the ground(s) of appeal has been made out.

To the extent practicable, an appeal should be held within fourteen days of the Appeal Notice being lodged and the Appeal Fee being paid.

An appeal will be conducted by an Appeal Committee convened by the Relevant Organisation that has jurisdiction for the matter.

Subject to clause 21.4 of the Code, a decision handed down by the Appeal Committee is final and may not be appealed.

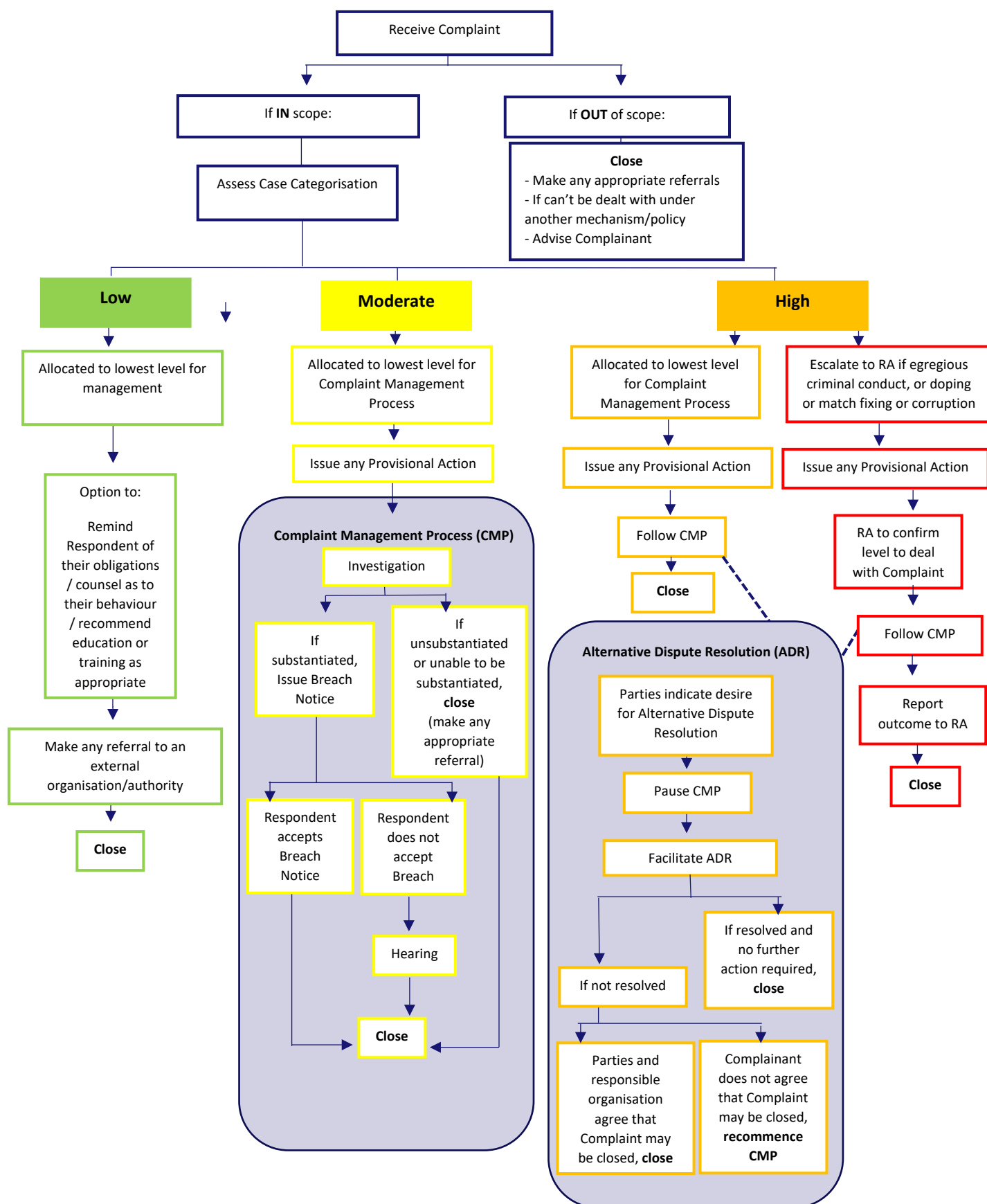
The Appeal Notice must be sent to the Complaint Handler at the Relevant Organisation that dealt with the Code of Conduct Committee hearing.

**Please note:** Any Appeal Notice may be provided to the Complainant and any other Relevant Person and/or Relevant Organisation that the Complaint Handler deems necessary and appropriate.

#### 7. **SIGN OFF**

Signature of Appellant	
Date	

# APPENDIX 4 – COMPLAINT PROCESS FLOWCHART



# APPENDIX 5 - EXAMPLES OF PROHIBITED CONDUCT

The following provides illustrative examples of conduct that may, depending on the specific circumstances and subject always to the requirements and definitions within the Code, constitute Prohibited Conduct. These examples are not exhaustive and do not cover every possible scenario.

## 1. Physical Abuse

Physical Abuse comprises any act, conduct or behaviour of a nature and level of seriousness which may include:

- (a) striking another person including hitting, slapping, punching, kicking, shaking, biting, or spitting;
- (b) throwing equipment or property at a person or destroying property;
- (c) imposing unreasonable deprivations including sleep or food deprivation, forced feeding, or unreasonable physical restraint;
- (d) administering excessive physical exercise as punishment for poor performance; or
- (e) otherwise subjecting a person to unreasonable risk of harm,

except where any physical contact is consistent with the Laws the Game and accepted and reasonable behaviour within the Activity when undertaking the Activity.

## 2. Sexual Abuse

Sexual Abuse comprises acts, conduct or behaviour of a sexual nature and level of seriousness including but not limited to rape and sexual assaults, use of sexually degrading insults (either in-person or online), forced sex or sexual acts, deliberately causing pain during sex, non-consensual touching or exposure to pornography, sexual jokes, requests for sexual acts, using sex to coerce compliance or indecent exposure.

## 3. Emotional (Psychological) Abuse

Emotional (Psychological) Abuse comprises acts, conduct or behaviour of a nature and level of seriousness including but not limited to repeated and intentional public embarrassment of another individual, unreasonably preventing or excluding another individual from participating in an Activity, isolation or ignoring, gaslighting, scapegoating, stalking, unauthorised monitoring, threatening harm to family or

friends, humiliation or intimidation, withholding necessary corrections or feedback to a player, body shaming or promoting disordered eating.

#### **4. Verbal Abuse**

Verbal Abuse comprises acts, conduct or behaviour of a nature directed at an individual or group of people and of a nature and level of seriousness including but not limited to repeated or severe insults, derogatory name calling, excessive criticism, persistent or aggressive swearing, belittling, taunting, repeated verbal attacks on someone's intelligence, homophobic or transphobic comments, or aggressive yelling targeted at an individual.

#### **5. Bullying**

Bullying constitutes a pattern of behaviour (whether in-person or online) of a nature and level of seriousness which may include but is not limited to:

- (a) deliberate social exclusion;
- (b) making rude gestures, calling names, being persistently impolite, negative or teasing;
- (c) spreading rumours or lies, or misrepresenting someone, for example using their social media account to post messages as if it were them;
- (d) excessive or harmful conduct characterised as fooling around, messing about or supposedly playful conduct that exceeds reasonable boundaries;
- (e) harassment based on a Protected Characteristic;
- (f) intentional and repeated physical harm; or
- (g) abuse of power imbalances,

but does not include legitimate and reasonable:

- (a) management actions;
- (b) management processes;
- (c) disciplinary action; or
- (d) allocation of activities in compliance with agreed systems.

#### **6. Harassment**

Harassment (either in-person or online) constitutes a pattern of behaviour of a nature and level of seriousness which may include but is not limited to:

- (a) telling insulting jokes, making taunts or derogatory comments about a Protected Characteristic of a person;
- (b) displaying offensive material including racially offensive or pornographic images or screensavers;
- (c) making intrusive inquiries about someone's personal life;

- (d) intentional stalking; or
- (e) non-consensual disclosure of someone's gender identity or sexual orientation.

## **7. Sexual Misconduct**

Sexual Misconduct comprises acts, conduct or behaviour (either in-person or online) which may include but is not limited to:

- (a) unwelcome touching;
- (b) sexually suggestive comments or jokes;
- (c) showing, displaying or sharing sexually explicit images or material including screensavers;
- (d) repeated unwanted romantic or sexual invitations;
- (e) requests for sex;
- (f) intrusive questions about a person's private life (including their sex life), or their body;
- (g) unnecessary physical contact, such as deliberately brushing up against a person;
- (h) sex-based insults or taunts;
- (i) sexually explicit physical contact; or
- (j) sending sexually explicit or suggestive communications including emails, texts or social media messages.

## **8. Discrimination**

Discrimination may include:

- (a) excluding someone from participation based on their sexual orientation;
- (b) refusing to select someone in a team because of their height;
- (c) excluding someone from an Activity because of a disability;
- (d) use of sexist language in communications to players or staff.

Discrimination is not against the law if:

- (a) there is a real risk to someone's health, safety or property i.e. restricting a person who is 30 years old playing in an under 18's team;
- (b) competitions are organised in different age categories;
- (c) participation is restricted based on relevant weight requirements;
- (d) the exclusion of men from a women's-only team where the only applicants for a mixed team have been from men (as this exclusion aims to help people of a particular gender to participate in the activity); or



- (e) a person is restricted from competing for the Australian Deaf Rugby team, unless they have hearing loss of at least 50 decibels in one or both ears.

## **9. Victimisation**

Victimisation may include:

- (a) labelling someone as a trouble maker;
- (b) dismissal of a person or disadvantage to their involvement in an Activity because they have or intended to make a complaint;
- (c) exclusion of a person from an Activity because the person was a witness to Prohibited Conduct; or
- (d) failure to select an individual on merit because the person supported another person in lodging a complaint.

## **10. Vilification**

Vilification (either in-person or online) may include:

- (a) communications about a Protected Characteristic of a person in a way that is likely to incite dislike, hatred or ridicule;
- (b) publishing unsubstantiated claims that a racial, political or religious group is involved in serious criminal activity;
- (c) repeated and/or serious verbal or physical abuse about a Protected Characteristic of another person;
- (d) inciting violence against people who belong to a particular race, religion, political party or of a particular sex or gender identity, or damaging their property; or
- (e) encouraging hatred against racial, political or religious group using flyers, stickers, posters, a speech, publication, or using websites, social media or email.

Further examples of vilification may include:

- (a) a building being painted with a Nazi symbol or the words "No Jews";
- (b) using racial slurs and telling a person to "go back to your country"; or
- (c) accusing a person of being a paedophile on the grounds of someone identifying as a homosexual.