

**NATIONAL  
POLICY**



**MEMBER  
PROTECTION  
POLICY**

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# MEMBER PROTECTION POLICY

## PART I – APPLICATION

### 1. Purpose

- 1.1 Tennis Australia (**TA**) is a not-for-profit organisation providing tennis and recreation services to individuals of all ages.
- 1.2 TA operates in all Australian states and territories, and provides services including social tennis, tennis coaching, competitions and tournaments, player development, local and international events, education, and training.
- 1.3 The purpose of the Member Protection Policy (**Policy**) is to protect the health, safety and well-being of those who participate in the activities of tennis, including those delivered by TA, Member Associations, Affiliated Organisations, Member Affiliated Organisations, Regional Associations and Affiliated Clubs (**Australian Tennis Organisations**, or hereafter **ATOs**).
- 1.4 TA and all ATOs will not tolerate any form of abuse, neglect, harassment, unlawful discrimination, vilification, victimisation, indecency or violence against any adult or child by Personnel, and such conduct is a breach of this Policy.
- 1.5 TA takes seriously its responsibility and commitment to provide a safe environment for those participating in the activities of ATOs, particularly individuals at a disadvantage and children and young people. TA and all ATOs have a zero tolerance approach to child abuse. All ATOs are committed to ensuring children are safe when participating in tennis activities, and ensuring that services are delivered in the best interests of their young participants. This commitment is endorsed and approved by the Board of TA.
- 1.6 All persons bound by this Policy have the responsibility to:
  - (a) adopt the practices and behaviours set by TA as the expected standard when carrying out their roles (including those set out in this Policy);
  - (b) implement and comply with the screening measures in Part II of this Policy;
  - (c) report any breaches of this Policy which they become aware of to a Complaint Recipient (see Part IV of this Policy), and where necessary, to external authorities responsible for child protection (this subclause applies regardless of whether the abuse is being perpetrated by personnel within their organisation, or by others within the wider community, including members of a child's family, their extended network or strangers); and
  - (d) manage alleged instances of harassment, abuse, discrimination and other conduct which may breach this Policy, as per the procedures outlined in this Policy.
- 1.7 If anything in this Policy is inconsistent with any relevant Federal, State or Territory law, the relevant Federal, State or Territory law prevails to the extent of the inconsistency.

## 2. Application

2.1 This Policy applies to the following individuals and organisations:

- (a) persons and administrators appointed or elected to boards of directors, executives and/or committees (including sub-committees) of ATOs and office bearers of ATOs such as presidents, vice-presidents, treasurers, secretaries and selectors;
  - (b) employees of ATOs (whether engaged as full time, part time or casual staff) and contractors of ATOs;
  - (c) officials appointed or elected by an ATO in relation to players and/or teams which represent such organisations including team management personnel such as coaches, managers, physiotherapists, and other support personnel;
  - (d) tennis coaches (including assistant coaches) who:
    - (i) are appointed and/or employed by an ATO (whether paid or unpaid);
    - (ii) are a TA Coach Member;
    - (iii) are members of a coaching organisation e.g. Tennis Coaches Australia and internationally recognised coaching associations; and/or
    - (iv) have an agreement (whether or not in writing) with an ATO to coach tennis at a facility owned, occupied or managed by, or affiliated with, that ATO;
  - (e) Officials;
  - (f) tennis players who:
    - (i) enter any tournament, competition, activity or event (including camps and training sessions) being held or sanctioned by an ATO;
    - (ii) are registered with a Regional Association and/or Affiliated Club as a player and/or member of that Regional Association and/or Affiliated Club;
  - (g) any other person who is member or user of, or affiliated to, an ATO (including life members or service award holders); and
  - (h) any other person or entity (for example a parent/guardian, spectator or sponsor) who or which agrees, in writing (whether on a ticket, entry form or otherwise), to be bound by this Policy; and
  - (i) all Australian Tennis Organisations,
- (collectively, **Personnel**).

### 3. Procedural Obligations

#### 3.1 ATOs must:

- (a) adopt and comply with this Policy;
- (b) recognise and enforce any sanction/s imposed under this Policy;
- (c) publish, distribute and promote this Policy (and any amendments made to it) to their members, in the manner required by TA or an MA and upon reasonable request, make this Policy available for inspection, or copying;
- (d) make such amendments to their constitution, rules or policies necessary for this Policy to be enforceable; and
- (e) ensure that its members adopt this Policy (e.g. a Member Association imposes the Policy on its Affiliated Clubs, and the Affiliated Clubs in turn impose it on their individual members).

#### 3.2 In addition, TA and MAs must:

- (a) appoint a Member Protection Information Officer to fulfil the functions set out in this Policy, and to publish and display the names and contact details of such persons to their members; and
- (b) establish a Tribunal in accordance with Part V of this Policy.

#### 3.3 Affiliated Organisations, Regional Associations and Affiliated Clubs do not have to establish procedures for dealing with Complaints and Tribunal Hearings pursuant to this Policy. However, if they wish to do so, those procedures for dealing with Complaints and Tribunal Hearings must comply with the requirements outlined in this Policy.

### 4. Definitions

#### 4.1 The terms below have the following meanings in this Policy:

**Abuse** is defined as in clause 8.9.

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

**Affiliated Organisations** means those organisations (other than Member Associations, Regional Associations and Affiliated Clubs) which are affiliated with Tennis Australia or an MA from time to time in accordance with the TA or MA constitution (as the case may be).

**Australian Tennis Organisation (ATO)** includes Member Associations, Affiliated Organisations, Regional Associations and Affiliated Clubs.

**Child/ren** are any individuals under 18 years of age.

**Child Abuse** is as defined in clause 8.11.

**Complaint** is as defined in clause 10.1.

**Complainant** is the person or entity that makes a Complaint under this Policy.

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

**Harassment** is as defined in clause 8.2.

**Member Association/s (MA or MAs)** means members of Tennis Australia in accordance with its constitution.

**Member Protection Information Officer** means a person appointed in accordance with clause 3.2, to act as the first point of contact for any enquiries, concerns or complaints associated with harassment, abuse and other alleged breaches of this Policy.

**National Police Check** involves a search of the National Names Index for disclosable court outcomes across police records in all Australian states and territories. The search does not include spent convictions, unless a statutory obligation exists to disclose information based on the candidate's role.

**Nominated Official** is as defined in accordance with clause 10.14.

**Officials** includes referees, court supervisors, chair umpires, lines people and other related tournament officials referees involved in the regulation of the game of tennis appointed by an ATO and/or any person who holds a TA officials membership.

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

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

**Respondent** is the person or entity against whom a Complaint is made.

**Sexual Offence** means any offence involving sexual activity or acts of indecency including but not limited to:

- (a) Rape;
- (b) Indecent assault;
- (c) Sexual assault;
- (d) Assault with intent to have sexual intercourse;
- (e) Incest;
- (f) Sexual penetration of a child under the age of 16;

- (g) Indecent act with a child under the age of 16;
- (h) Sexual relationship with a child under the age of 16;
- (i) Sexual offences against people with impaired mental or physical functioning;
- (j) Abduction and detention;
- (k) Procuring sexual penetration by threats or fraud;
- (l) Procuring sexual penetration of a child under the age of 16;
- (m) Bestiality;
- (n) Soliciting acts of sexual penetration or indecent acts;
- (o) Promoting or engaging in acts of child prostitution;
- (p) Obtaining benefits from child prostitution;
- (q) Possession of child pornography; and
- (r) Publishing child pornography or indecent articles.

**Sexual Harassment** is as defined in clauses 8.6 and 8.7.

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

**Unlawful Discrimination** is as defined in clause 8.14.

**Vilification** is as defined in clause 8.19.

**Working With Children Check** is an ongoing assessment by the relevant government agency of a person's eligibility to work with children, examining relevant sexual offences and serious physical and serious drug offences in a person's national criminal history and, where appropriate, their professional history.

## PART II – SCREENING OF APPOINTEES

### 5. Screening of Appointees

- 5.1 TA recognises that robust screening processes are critical to reduce the risk of, and prevent, child abuse and other forms of improper conduct towards children and others.
- 5.2 For the purposes of this Policy, screening includes:
- (a) *Checking referees* – making verbal or written enquiries with the person's nominated referees (at least two) as to the person's suitability for the role and their suitability for involvement with children;
  - (b) *Interviewing the person* – questioning the person as to their suitability for the role and their suitability for involvement with children;
  - (c) *A Working with Children Check* – confirming the person's suitability for the role and their suitability for involvement with children;
  - (d) *Member Protection Declarations* – providing a person with the opportunity to make disclosures; and
  - (e) *For TA and MAs only: A National Police Check* – confirming whether the person has any previous criminal convictions.
- 5.3 Screening under this Policy is not a replacement for any other procedure required by law (see ATTACHMENT A - State and Territory Legislation Overview - Working With Children).
- 5.4 Screening is mandatory by ATOs for Preferred Appointees and Existing Appointees in the following types of roles:
- (a) persons who are elected or appointed to boards of directors, executives and/or committees (including subcommittees) and office bearers such as presidents, vice-presidents, treasurers, secretaries and selectors of ATOs that have junior users, players and/or members;
  - (b) persons who are appointed or seeking appointment (whether employed, contracted or otherwise) to a role in which they will have unsupervised contact with children, whether it be as coaches, team managers, tournament directors, officials and umpires (paid or volunteers) or otherwise; and
  - (c) persons appointed or seeking appointment to a role in which they are likely to have unsupervised contact with children.
- 5.5 It is highly recommended, though not mandatory, that ATOs also undertake some or all elements of the screening process outlined in clause 5.2 for all Preferred Appointees and Existing Appointees. This is especially the case where the Preferred Appointee or Existing Appointee is or will perform a role that it is likely to involve contact with children but where such contact is supervised at all times by another adult.



5.6 If, as part of the screening process, it is revealed that a Preferred Appointee or an Existing Appointee has been found guilty of any criminal offence the following applies:

- (a) The relevant ATO should consider:
  - (i) the nature, circumstances and seriousness of the conviction or offence;
  - (ii) when the conviction or offence occurred and the length of time since the conviction or offence occurred;
  - (iii) the age of the person when the offence occurred;
  - (iv) whether there is a pattern of behaviour; and
  - (v) the attitude of the person to the previous offending.
- (b) If the criminal offence involved violent conduct, abuse or an assault against a child, or a Sexual Offence then:
  - (i) *in the case of a Preferred Appointee*: the person must not be appointed.
  - (ii) *in the case of an Existing Appointee*: the appointment of the person should be terminated.

Note that before any action is taken pursuant to this clause 5.6(b), the relevant ATO should obtain independent legal advice to consider whether the proposed course of action is lawful. Also note that Section 6 provides further guidance on procedural steps to follow if a criminal offence is revealed through the MPD.

- (c) If the offence relates to a matter other than the offences identified in clause 5.6(b) then the relevant ATO should consider whether, based on the factors outlined in clause 5.6(a), the conviction or offence impacts on the person's ability to perform the inherent functions of their role and/or the appropriateness of the person having unsupervised contact with children. Depending on the outcome of that analysis the relevant ATO should either:
  - (i) *in the case of a Preferred Appointee*:
    - A. appoint the person or appoint the person pending further investigations;
    - B. appoint the person subject to certain conditions; or
    - C. not appoint the person.
  - (ii) *in the case of an Existing Appointee*:
    - A. allow the person to continue in their current role;
    - B. modify the person's duties, or impose conditions on how the person is to fulfil their duties, so that the person does not have any unsupervised contact with children; or

- C. terminate the person's appointment.

Note that before any action is taken pursuant to this clause 5.6(c), the relevant ATO should obtain independent legal advice to consider whether the proposed course of action is lawful.

- 5.7 All Existing Appointees and Preferred Appointees for roles of the type set out in clause 5.4 must agree to undertake the screening processes outlined within Part II. The screening should be completed prior to the appointment of a Preferred Appointee and immediately for Existing Appointees. Evidence of the screening (in the form of original and other supporting documentation) must be provided to, and stored by, the ATO. In addition, National Police Checks and Working With Children Checks, must be repeated every three years (or for Working With Children Checks, any other period as mandated under State law).

- 5.8 If a Preferred Appointee or Existing Appointee is not willing to agree to the Screening, the ATO:

- (a) *in the case of a Preferred Appointee:* shall not appoint that person to the role concerned;
- (b) *in the case of an Existing Appointee:* shall take steps to transfer the person to another role which does not fall within the categories set out in clause 5.4. If no appropriate alternative role exists, the appointment of the person should be terminated.

Note that before any action is taken pursuant to this clause 5.8, the relevant ATO should obtain independent legal advice to consider whether the proposed course of action is lawful.

- 5.9 If any successful Preferred Appointee or Existing Appointee is charged with or convicted of any criminal offence subsequent to their initial National Police Check, they are required to provide immediate, written notification of this to the Member Protection Information Officer (or, in their absence, their nominee) of the ATO that appointed them. The relevant ATO should follow the procedures outlined in clause 5.6 to determine whether any action should be taken as a result of the subsequent disclosure by the Preferred Appointee or Existing Appointee (as the case may be).

## 6. Member Protection Declaration

- 6.1 A Member Protection Declaration (**MPD**) is part of tennis' risk mitigation strategies and a mechanism designed to minimise the chances of inappropriate behaviour occurring. An MPD provides persons with the opportunity to make disclosures concerning criminal convictions, criminal proceedings, disciplinary proceedings and involvement in other behaviours or activities that pose or could pose a risk to working with children (ATTACHMENT B - Member Protection Declaration).
- 6.2 If, through an MPD, the person discloses a matter that the relevant ATO considers may impact the person's ability to perform the inherent requirements of their role, and/or the appropriateness of them having unsupervised contact with children, then the relevant ATO should provide an opportunity for the person to respond/provide an explanation for the disclosure.
- 6.3 The relevant ATO should consider:
- (a) the nature, circumstances and seriousness of the disclosure;
  - (b) when the matters outlined in the disclosure occurred and the length of time since the matters outlined in the disclosure;

- (c) the age of the person when the matters outlined in the disclosure occurred; and
- (d) the attitude of the person to the matters outlined in the disclosure.

6.4 Based on the factors outlined in clause 6.3, the relevant ATO must determine whether the disclosure impacts on the person's ability to perform the inherent requirements of their role, and/or whether the disclosure is such that it would be inappropriate for the person to have unsupervised contact with children. Depending on the outcome of that analysis the relevant ATO should either:

(a) *in the case of a Preferred Appointee:*

- (i) appoint the person or appoint the person pending further investigations;
- (ii) appoint the person subject to certain conditions; or
- (iii) not appoint the person.

(b) *in the case of an Existing Appointee:*

- (i) let the person continue in their current role;
- (ii) modify the person's duties or impose conditions on how the person is to fulfil the duties of their role so that they do not have any unsupervised contact with children; or
- (iii) terminate the person's appointment.

Note that before any action is taken pursuant to this clause 6.4, the relevant ATO should obtain independent legal advice to consider whether the proposed course of action is lawful.

## 7. Screening and Privacy Law

7.1 All information obtained during screening, including the National Police Check, must be kept strictly confidential in accordance with the *Privacy Act 1988*, Australian Privacy Principles and the Tennis Privacy Policy (which can be found at <https://www.tennis.com.au/about-tennis-australia/reports-and-policies/policies>).

7.2 Access to information collected during the course of screening should be limited to the advisers and the persons within an ATO who have been delegated the task of screening or making the appointment. All such information must be destroyed or de-identified after a period of seven years post the ceasing of an appointees' engagement with the ATO or one year post application that did not result in an appointment, unless that person agrees to that information or a part of it being retained by the ATO.

## PART III – OFFENCES

### 8. Offences under this Policy

- 8.1 Harassment, Abuse, Child Abuse, Unlawful Discrimination, Victimisation and Vilification are unlawful and prohibited and they also constitute a breach of this Policy. This Part III outlines in more detail the types of behaviours that are a breach of this Policy.

#### Harassment

- 8.2 **Harassment** is any unwelcome or unsolicited behaviour, which is intimidating, humiliating, offensive, belittling or threatening to a person. It can be expressed or implied, physical, verbal or non-verbal (i.e. visual). It can be a single incident or repeated behaviour.
- 8.3 Whether or not the behaviour is Harassment is determined from the point of view of the person receiving the behaviour, assessed objectively. That is, it must be behaviour that a reasonable person in possession of the same information would think the course of conduct amounted to harassment. It does not matter whether or not the person harassing intended to offend or not.
- 8.4 For clarity, harassment can be, but is not limited to, any one or more of the following:
- (i) offensive physical contact;
  - (ii) intimidating acts;
  - (iii) asking intrusive questions about someone's personal life;
  - (iv) comments that put down or stereotype people;
  - (v) electronic messages or other types of communication which are threatening, abusive or offensive;
  - (vi) derogatory, crude or demeaning jokes; and
  - (vii) name calling or physical threats.
- 8.5 For the avoidance of doubt, Harassment also includes Sexual Harassment.

#### Sexual Harassment

- 8.6 **Sexual Harassment** consists of:
- (a) any unwelcome sexual advances;
  - (b) any unwelcome requests for sexual favours; and
  - (c) unwelcome conduct of a sexual nature (including oral or written statements of a sexual nature).

8.7 Examples of Sexual Harassment may include:

- (a) Uninvited touching, kissing, embracing, massaging;
- (b) Staring, leering, ogling;
- (c) Smutty jokes and comments;
- (d) Persistent or intrusive questions about people's private lives;
- (e) Repeated invitations to go out, especially after prior refusal;
- (f) Unwanted sexual propositions;
- (g) The use of promises or threats to coerce someone into sexual activity;
- (h) The display of sexually explicit material e.g. internet use, computer screen savers, calendars, posters;
- (i) Getting undressed in front of others of the opposite sex;
- (j) Invading the privacy of persons while showering or toileting;
- (k) Photographing others while undressing, showering or toileting;
- (l) The use of sexually offensive written or electronic communication; and
- (m) Sexual insults and name-calling.

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

## Abuse

8.9 **Abuse** includes:

- (a) Physical abuse – abuse which occurs when any person subjects another person to non-accidental physically aggressive acts or contact. The abuser may inflict an injury intentionally, or inadvertently as a result of physical punishment or aggressive treatment. Physically abusive behaviour includes (but is not limited to) shoving, hitting, slapping, shaking, throwing, punching, biting, burning, kicking; or training that exceeds the persons development or maturity;
- (b) Sexual abuse – abuse which occurs when a person involves another person in any unwanted sexual activity. It includes both contact and non-contact behaviour, and when a person is encouraged or forced to watch or engage in a sexual activity, or any other inappropriate conduct of a sexual nature. Examples include sexual intercourse, masturbation, kissing or fondling, oral sex, making sexual comments, engaging a person in sexual conversations in-person or via social media, voyeurism (i.e. observing a person in an

action that is considered to be of a private nature, such as undressing in a change room), nudity (i.e. an abuser exposing themselves or another person) touching a person's genitals or breasts, encouraging a person to view pornography including child pornography or other inappropriate touching or conversations; and exploiting a person through prostitution;

- (c) Emotional abuse or Psychological abuse – abuse which occurs when a person threatens another person. Often there is a pattern of emotional or psychological abuse, however a single incident could also occur. Such abuse may involve humiliating, terrorising, name-calling, belittlement, inappropriate symbolic acts, taunting, sarcasm, yelling, negative criticism, placing unrealistic expectations on a person or continual coldness from any person, to an extent that results in significant damage to the person's physical, intellectual or emotional wellbeing and development;
- (d) Neglect – abuse involving the persistent failure or deliberate denial to provide a person with the basic necessities of life, for example failing to give adequate food, clean water, adequate supervision, medical attention, shelter, clothing or to protect a child from danger or foreseeable risk of harm or injury;
- (e) Abuse of Power – an abuse of power the harasser holds over the harassed. For example relationships that involve a power disparity such as a coach-player, adult-child, manager-player, employer-employee, doctor-patient have the potential for abuse of that power. People in such positions of power need to be particularly wary not to exploit that power, particularly around children;
- (f) Grooming – a term used to describe what happens when a perpetrator builds a relationship with a vulnerable person with a view to abuse them at some stage. Grooming does not necessarily involve any sexual activity or even discussion of sexual activity – for example, it may only involve establishing a relationship with the child, parent or carer (e.g. giving special attention, providing favours, and giving gifts) for the purpose of facilitating sexual activity at a later time; and
- (g) Family and Domestic violence – violence between members of a family or extended family, or those fulfilling the role of family in a person's life. It occurs when a person is forced to live with violence between people in or beyond their place of residence. It can include witnessing violence or the consequences of violence. Exposure to family and domestic violence places people, in particular, children at increased risk of physical injury and harm and has a significant impact on their wellbeing and development.

#### 8.10 Examples of Abuse include:

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

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

### Child Abuse

- 8.11 **Child Abuse** means any Abuse where the offending conduct is against a child, and includes, but is not limited to:
- (a) Physical abuse – abuse by hurting a child or a child’s development (e.g. hitting, shaking or other physical harm; giving a child alcohol or drugs; or training that exceeds the child’s development or maturity);
  - (b) Sexual abuse – abuse by adults or other children where a child is encouraged or forced to watch or engage in sexual activity or where a child is subject to any other inappropriate conduct of a sexual nature (e.g. sexual intercourse, masturbation, oral sex, pornography including child pornography or inappropriate touching or conversations);
  - (c) Emotional abuse – abuse by ill-treating a child (e.g. humiliation, taunting, sarcasm, yelling, negative criticism, name calling, ignoring or placing unrealistic expectations on a child);
  - (d) Neglect – abuse that arises in failing to provide basic needs (e.g. food, water, shelter, clothing, or to protect a child from danger or foreseeable risk of harm or injury);
  - (e) Grooming – a term used to describe what happens when a perpetrator builds a relationship with a child with a view to abuse them at some stage. Grooming does not necessarily involve any sexual activity or even discussion of sexual activity – for example, it may only involve establishing a relationship with the child, parent or carer (e.g. giving special attention, providing favours, and giving gifts) for the purpose of facilitating sexual activity at a later time; and
  - (f) Family and Domestic violence – violence involving a child which is between members of a family or extended family, or those fulfilling the role of family in a child’s life. It occurs when a child is forced to live with violence between people in or beyond their place of residence. It can include witnessing violence or the consequences of violence. Exposure to family and domestic violence places children at increased risk of physical injury and harm and has a significant impact on their wellbeing and development.
- 8.12 If you suspect or have been provided with information that indicates Child Abuse has/may have or is likely to occur, then it is a mandatory requirement to notify the police and/or the relevant state/territory government agency (See ATTACHMENT C - Information for Reporting Allegations of Child Abuse & ATTACHMENT D - State/Territory government agency contact details to report alleged Child Abuse).
- 8.13 Where an allegation of Child Abuse has been provided, the MPIO and anyone bound by this policy must immediately report any incident to the police and/or relevant state/territory government agency (See ATTACHMENT C - Information for Reporting Allegations of Child Abuse & ATTACHMENT D - State/Territory government agency contact details to report alleged Child Abuse).

## Unlawful Discrimination

- 8.14 **Unlawful Discrimination** is defined as treating someone or a group less favourably than another person or group because of a particular protected personal characteristic. Requesting, assisting, instructing, inducing or encouraging another person to engage in Unlawful Discrimination is also considered Unlawful Discrimination.
- 8.15 The protected characteristics are:
- (a) Sex;
  - (b) Race or ethnic background;
  - (c) Age;
  - (d) Disability;
  - (e) Pregnancy and breastfeeding;
  - (f) Gender identity;
  - (g) Marital status;
  - (h) Religion;
  - (i) Sexual orientation;
  - (j) Parental status or status as a carer;
  - (k) National extraction or social origin; and
  - (l) Industrial, political or trade union activity,
- (collectively, **Protected Characteristics**)
- 8.16 Unlawful Discrimination may be either direct or indirect. Direct discrimination occurs when a person treats or proposes to treat someone less favourably because of a Protected Characteristic.
- 8.17 Indirect discrimination occurs where a person imposes, or proposes to impose, an unreasonable requirement, condition or practice that has, or is likely to have, the effect of disadvantaging people with a Protected Characteristic.
- 8.18 Note that under Federal and State legislation, certain forms of discrimination may be lawful. Examples include:
- (a) discrimination in relation to age where competitions have been formed to ensure fair play exists between opponents, for example, senior tennis players are not permitted to participate in junior tennis competitions; and
  - (b) discrimination in relation to sex, for example, ensuring female tennis players receive female chaperones;



ATOs are strongly advised to obtain their own independent legal advice in relation to any action which the ATOs consider to be lawful discrimination.

### **Vilification**

- 8.19 Vilification involves a person inciting hatred towards, serious contempt for, or severe ridicule of, a person or group of persons by a public act, including any form of communication to the public and any conduct observable by the public based on a Personal Characteristic. Vilification is an offence under this Policy.
- 8.20 Some forms of Vilification may constitute a criminal offence, for example where harm is threatened. If you suspect that a criminal offence may have been committed you should notify the police and/or seek legal advice.

### **Victimisation**

- 8.21 Victimisation occurs when one person subjects, or threatens to subject, another person to some form of detriment or harm because that person has asserted a right (for example, that person has exercised their right to lodge a harassment complaint, or supported someone else's complaint of a similar nature).
- 8.22 TA will take all necessary steps to ensure that people involved in a complaint are not victimised for coming forward or providing assistance. Individuals have the option to report a complaint of victimisation to TAs whistle-blower service confidentially (see TAs Whistle-blower Policy). Conduct which amounts to victimisation is a breach of this Policy and will not be tolerated. There are Federal laws which may protect a person from being victimised for making a complaint.

### **Discrimination, Harassment and Abuse on the basis of pregnancy**

- 8.23 TA is committed to providing a safe and inclusive sporting environment for pregnant women involved in tennis. Unreasonable barriers preventing or disadvantaging pregnant women from participating in tennis should be removed.
- 8.24 TA will not tolerate Unlawful Discrimination, Harassment and/or Abuse against pregnant women, and such conduct amounts to a breach of this Policy .
- 8.25 TA will endeavor to take all reasonably practicable steps to ensure the safety, health and well-being of pregnant women and their unborn children. This includes, but is not limited to, providing advice to pregnant women of the risks involved in participating in tennis and encouraging them to obtain medical advice.
- 8.26 Women who are pregnant will never be required to undertake a pregnancy test prior to participation in any tennis related activity.

### Discrimination, Harassment and Abuse on the basis of gender identity

- 8.27 Gender identity is how individuals perceive themselves irrespective of the sex they were assigned at birth. TA acknowledges that gender identity is fluid and is not determined by an individual's appearance, mannerisms or other gender-related characteristics.
- 8.28 TA will not tolerate Unlawful Discrimination, Harassment or Abuse against someone because of their gender identity. This includes discrimination or harassment of a person who is transgender or gender averse, or who is assumed to be transgender or gender averse, or has an association with someone who has or is assumed to be transgender or gender averse. This clause also applies when a person is undergoing gender transition/affirmation, or sex reassignment therapy.
- 8.29 TA is committed to facilitating participation in tennis on the basis of the gender with which the person identifies, in accordance with the conditions described in the International Tennis Federations (ITF) Transgender Policy. TA will endeavour to take all reasonably practicable steps to provide facilities and support where necessary.
- 8.30 For the avoidance of doubt, this policy should be read in conjunction with TAs Anti-Doping Policy, which specifies the tennis participation requirements around therapeutic drug use for those undergoing or maintaining sex reassignment therapy.

## **9. Social Media**

- 9.1 The TA Social Media Policy governs the use of social media by Personnel. A breach of the Social Media Policy may also constitute a breach of this Policy.

## PART IV – COMPLAINT HANDLING PROCEDURE

### 10. Complaints

- 10.1 If any person considers that this Policy has been breached, they may make a complaint (**Complaint**).
- 10.2 TA aims to resolve all Complaints in a fair, timely and effective manner. However, given their complexity, the process and timelines involved in resolving a Complaint may vary from time to time. A summary of the Complaint handling process is depicted in the diagram set out in ATTACHMENT E – Complaint handling flowchart. All persons reading this Policy are encouraged to review ATTACHMENT E – Complaint handling flowchart to gain an overarching understanding of the Complaint handling process set out in this Policy.
- 10.3 A Complaint must be made to:
- (a) an MPIO of an ATO;
  - (b) the President, or in their absence the nominee, of the relevant ATO;
  - (c) a TA Integrity Officer; or
  - (d) TA's Whistle-Blower Service - Stopline. Stopline can be contacted via their website <http://stopline.com.au/whistleblowing-program/> or via their hotline 1800 11 72 33,
- (in each case, a **Complaint Recipient**).
- 10.4 Following receipt of the Complaint, the Complaint Recipient must register the Complaint with the TA Integrity and Compliance Unit (**TAICU**) through TA's online Complaint Management System (**CMS**) which can be found at: <https://integrity.tennis.com.au/ICCMS/complaint.aspx>
- 10.5 A Complaint must be reported within 14 days of the alleged breach. However, the TAICU may extend or waive this requirement where it is of the reasonable belief that the circumstances warrant such action. Accordingly, all Complaint Recipients must lodge any Complaint received in the CMS regardless of when the alleged conduct of the Complaint occurred.
- 10.6 Notwithstanding the procedures outlined in this Policy:
- (a) *For a Complaint which involves an allegation of Child Abuse:* the TAICU must report the matter to the relevant law enforcement agency/agencies; and
  - (b) *For a Complaint which involves any other allegation:* the TAICU may refer the Complaint to the relevant law enforcement agency/agencies at the TAICU's ultimate discretion.
- 10.7 The Complaint handling procedure outlined in this Policy may be suspended whilst a criminal investigation is undertaken.

#### Categorising a Complaint

- 10.8 The Complaint must be assessed and categorised by a member of the TAICU (**Assessor**).

- 10.9 The Assessor must base their categorisation on the information provided in the Complaint. The Assessor may also, at their absolute discretion, undertake further fact finding with the Complainant if they consider such fact finding necessary to categorise the Complaint.
- 10.10 This further fact finding may involve written correspondence with the Complainant or further conversation/s with the Complainant via any medium the Assessor considers appropriate.
- 10.11 In categorising the Complaint, the Assessor will be guided by one or more of the following non-exhaustive list of factors:
- (a) the nature of the alleged breach of this Policy;
  - (b) the impact, damage or harm caused by the alleged breach of this Policy on the victim or Complainant, TA, an ATO and/or the sport of tennis generally;
  - (c) the alleged intent of the Respondent;
  - (d) the need for a penalty to be imposed if it were found that the alleged conduct occurred;
  - (e) the appropriate level of penalty proportionate to this type of alleged conduct;
  - (f) the need for general and specific deterrence from this type of alleged conduct;
  - (g) the potential for the Complaint to escalate;
  - (h) the public interest in the Complaint and/or the alleged conduct;
  - (i) the complexity of the circumstances surrounding the Complaint; and
  - (j) parity and consistency of approach to dealing with Complaints generally.
- 10.12 The Assessor must categorise the Complaint into one of the following categories:
- (a) Vexatious, Baseless or Trivial (see definition in section 11);
  - (b) Category A (see definition in section 12);
  - (c) Category B (see definition in section 13); or
- 10.13 In the event that the conduct which is the subject of the Complaint consists of a number of alleged breaches of this Policy, and some of the alleged breaches (in the Assessor's opinion) involve different classifications, the Assessor may elect to either:
- (a) deal with each alleged breach separately; or
  - (b) consolidate the alleged breaches into one matter and categorise the conduct as whole.

## Management of the Complaint

- 10.14 Following categorisation, the Assessor may consult with the relevant ATO, and must then decide whether to continue managing the Complaint or refer the management of the Complaint to a specified personnel of the relevant ATO (**Nominated Official**).
- 10.15 In determining whether to refer the Complaint to the ATO, the Assessor will consider:
- (a) whether the relevant ATO has the resources and established processes to deal with the Complaint in accordance with this Policy; and
  - (b) the appropriateness of the relevant ATO managing the Complaint.
- 10.16 For the avoidance of doubt, if the Assessor decides to continue managing the Complaint and does not refer the matter to an ATO, the Assessor will be considered the Nominated Official for the purposes of this Policy.
- 10.17 The Nominated Official must ensure the Complaint is dealt with in accordance with the procedures set out in this Policy.

## **11. Vexatious, Baseless or Trivial Complaints**

- 11.1 For the purposes of this Policy, a:
- (a) *Vexatious Complaint* is a complaint which the Assessor considers is being made for an improper purpose or with the intention of causing inconvenience, frustration, harm, harassment or expense to another;
  - (b) *Baseless Complaint* is a complaint which the Assessor considers is without merit and/or lacking in sufficient grounds or evidence to be substantiated; and
  - (c) *Trivial Complaint* is a complaint which in the Assessor's opinion holds little weight, consequence or importance.
- 11.2 If the Assessor categorises the Complaint as Vexatious, Baseless or Trivial, the Nominated Official must notify the Complainant of this classification in writing within seven days of the categorisation.
- 11.3 The Complaint will then be closed.
- 11.4 There is no right of appeal from a determination by the Assessor that the Complaint is Vexatious, Baseless or Trivial.

## Truthful information and general cooperation

- 11.5 Any Personnel who:
- (a) in making a Complaint, or during any other part of the Complaint handling process, provides information or acts in a manner which is in any respect false or misleading or likely to mislead; or

(b) falsely and deliberately accuses a person of breaching this Policy,

may be in breach of this Policy and liable to a sanction as determined under this Policy.

11.6 Note that anyone who is deemed to have made multiple Vexatious, Baseless or Trivial Complaints will be considered to have breached this Policy by engaging in conduct which amounts to Abuse. In such circumstances, the person making the Complaints may be deemed to be a Respondent and subject to the disciplinary processes and procedures outlined in this Policy.

## 12. Complaint – Category A

12.1 For the purposes of this Policy, a Category A Complaint is a complaint which the Assessor considers to be serious based on its assessment of the list of factors set out in clause 10.11.

12.2 If the Assessor categorises the Complaint as Category A, the Nominated Official must notify the Complainant of this classification in writing within seven days of the categorisation.

12.3 The Nominated Official must then conduct an investigation into the Complaint.

12.4 The investigation process conducted by the Nominated Official must include the following steps:

- (a) Collecting witness statements from any other parties that the Nominated Official deems necessary;
- (b) Conducting interviews;
- (c) Collecting any other information, which may include video footage, photos, recordings etc. that the Nominated Official deems necessary; and
- (d) Requesting a written response from the Respondent to the Complaint.

12.5 At the commencement of an investigation, the Nominated Official must notify the Respondent in writing of the following:

- (a) Possible sanctions which may be imposed by the Nominated Official or Tribunal;
- (b) Request the Respondent provide a statement to the alleged breach/es within seven days, or such period determined by the Nominated Official; and
- (c) that the Nominated Official has sought a provisional suspension from the Tribunal Chairperson (if applicable), and that the Respondent has 48 hours to make a written submission to the Tribunal Chairperson prior to the Tribunal Chairperson making their determination on the provisional suspension,

### **(Notice of Alleged Category A Breach/es).**

12.6 If the Respondent is a child or under the care of a recognised carer, the Notice of Alleged Category A Breach/es should also be given to that child's parent, guardian or carer.

- 12.7 The Nominated Official has ultimate discretion to determine whether to extend the time by which a Respondent may respond to a Notice of Alleged Category A Breach/es.

### **Cooperation with investigations**

- 12.8 All Personnel must assist and cooperate with the Nominated Official in relation to any investigation into a Category A Complaint, including:
- (a) attending an interview, or interviews, with the Nominated Official as requested;
  - (b) fully and truthfully answering any questions asked by the Nominated Official during an investigation;
  - (c) giving information; and
  - (d) producing documents or things in their possession that is reasonably requested by the Nominated Official.
- 12.9 Notwithstanding clause 12.8, Personnel interviewed as a suspect in a criminal investigation, charged or arrested by a law enforcement agency in respect of a criminal offence shall not be required to give any information, give any evidence or make any statement to the Nominated Official pursuant to clause 12.8 if the Personnel can establish that to do so would breach any privilege against self-incrimination, or legal professional privilege. This clause does not limit any other rules or obligations on Personnel in this Policy or other TA policies.

### **Provisional Suspensions**

- 12.10 For Category A Complaints, if the Nominated Official considers that the Respondent presents a risk to the safety and welfare of the Complainant or others, or may cause harm to the reputation of the ATO or the sport of tennis generally, the Nominated Official may refer the Complaint to a Tribunal Chairperson who may decide to provisionally suspend the Respondent.
- 12.11 Provisional suspension may cover the following:
- (a) suspension from any role or duty the Respondent holds within an ATO; and/or
  - (b) a ban from any event or activity held by or sanctioned by any ATO; and/or
  - (c) the imposition of a requirement on the Respondent not to contact or in any way associate with the Complainant or other person to whom the Complaint relates until the determination of the Complaint.
- 12.12 The Respondent is entitled to make written submissions to the Tribunal Chairperson within the timeframe set out in the Notice of Alleged Category A Breach before a decision is made under clause 12.10 with respect to any provisional suspension being sought. If the Respondent does not provide written submissions within the timeframe set out in the Notice of Alleged Category A Breach, the Tribunal Chairperson may make a decision on the provisional suspension without any submissions from the Respondent.
- 12.13 If the Tribunal Chairperson imposes a provisional suspension, then the Nominated Official must provide written notification to the Respondent of the decision (including date of commencement of

the provisional suspension and that the provisional suspension shall continue until the matter is finalised by a Tribunal).

- 12.14 The Nominated Official may choose to advise the Chief Executive Officer and President of TA, the Chief Executive Officer and President of the relevant MA and any other ATO affected by the provisional suspension for the purposes of ensuring these organisations recognise and enforce the provisional suspension imposed. The Nominated Official may also notify any other parties affected by the decision if the Nominated Official considers it appropriate to do so in the circumstances.
- 12.15 There is no right of appeal against a decision in relation to whether to impose a provisional suspension against a Respondent.

### **Referral to a Tribunal**

- 12.16 Following the investigation, the Complaint must be referred to a Tribunal pursuant to Part V of this Policy.
- 12.17 The Complainant and Respondent and any other witnesses must be advised as soon as possible as to the date, time and location of the Tribunal hearing, and the likely composition of the Tribunal.

## **13. Complaint – Category B**

- 13.1 For the purposes of this Policy, a Category B Complaint is any complaint which the Assessor has not classified as either a Category A Complaint or a Vexatious, Baseless or Trivial Complaint.
- 13.2 If the Assessor categorises the Complaint as Category B, the Nominated Official must notify the Complainant of this classification in writing within seven days of the categorisation.
- 13.3 The Nominated Official must then conduct an investigation into the Complaint.
- 13.4 The investigation process conducted by the Nominated Official may or may not include any one or more of the following steps:
- (a) Collecting witness statements;
  - (b) Conducting interviews;
  - (c) Collecting any other information, which may include video footage, photos, recordings etc. that the Nominated Official deems necessary; and/or
  - (d) Requesting a written response from the Respondent and any other parties involved in the Complaint.
- 13.5 At the commencement of an investigation, the Nominated Official must notify the Respondent in writing that:
- (a) This Policy applies to the Complaint as well as indicating details of the alleged breach/es (a copy of this Policy should be provided); and



- (b) The Respondent may provide a statement responding to the alleged breach/es within seven days, or such other period determined by the Nominated Official.

**(Notice of Alleged Category B Breach/es).**

- 13.6 If the Respondent is a child or is in the care of a recognised carer, the Notice of Category B Alleged Breach/es should also be sent to the child's parent, guardian or carer.
- 13.7 The Respondent must provide their response within the timeframe stipulated in the Notice of Alleged Category B Breach. The Nominated Official has absolute discretion to determine whether to extend the time by which a Respondent may respond to a Notice of Alleged Category B Breach.
- 13.8 Following the investigation of a Complaint categorised as Category B, the Nominated Official may:
  - (a) Refer the matter to mediation; or
  - (b) Make a decision in relation to the Complaint.

**Mediation**

- 13.9 Mediation is an alternative dispute resolution procedure that gives the parties more control over the outcome of the Complaint. Mediation requires the parties to agree to the outcome of the Complaint as no third party can impose a solution or decision on the parties.
- 13.10 If at mediation the Complainant and Respondent do not agree on the result or outcome of the Complaint, the Complaint will remain unresolved and will continue to be dealt with in accordance with the remaining sections of this Policy.
- 13.11 By virtue of its nature, all parties to the Complaint must agree to participate in a mediation. The Nominated Official should seek approval from the Complainant to attend a mediation prior to canvassing the idea of a mediation with the Respondent. In the usual course, once the Complainant has agreed to mediation, the Nominated Official will contact the Respondent to seek their consent to participate in a mediation. If both parties agree to the mediation, the Nominated Official should assist the parties to coordinate the logistics of the mediation.
- 13.12 The mediation should be conducted by an independent third party. Whilst mediation will generally be undertaken by an organisation outside of TA, in certain circumstances (and with the consent of the Complainant and Respondent), the mediation may be conducted by TA or an ATO. A list of approved mediation providers is attached at ATTACHMENT F - State/Territory Mediation service providers. The Nominated Official will provide recommendations for a suitable mediator or the relevant state/territory mediation service.
- 13.13 Mediation should occur within two months of the parties agreeing to mediate. Once mediation is completed, the parties must notify the Nominated Official in writing of whether the Complaint was resolved. The parties are not required to disclose the details of the resolution of the Complaint to the Nominated Official.
- 13.14 If the Complainant and Respondent resolve the Complaint at the mediation, the Complaint will be considered finalised and closed and no further action will be taken in relation to the Complaint.
- 13.15 However, if:

- (a) the Complaint is not resolved at mediation;
- (b) one of the parties refuses to attend the mediation;
- (c) the mediation has not occurred within the timeframe set out in clause 13.13; or
- (d) the Nominated Official does not believe that mediation is appropriate,

the Complaint will be referred back to the Nominated Official to make a decision in relation to the Complaint.

### **Decision by the Nominated Official**

- 13.16 The Nominated Official must make a decision on the balance of probabilities (i.e. more probable than not) as to whether the Respondent committed the alleged breach/es.
- 13.17 If the Nominated Official considers that the Respondent has breached this Policy (**Category B Breach**), the Nominated Official must then also determine the sanction to be imposed on the Respondent under this Policy.
- 13.18 The Nominated Official may impose any one or more of the following sanctions on the Respondent for a Category B Breach:
- (a) A formal warning;
  - (b) A censure;
  - (c) A written apology from the Respondent to the Complainant or any other specified persons or entities as deemed appropriate by the Nominated Official. The Nominated Official may also impose a suspended sanction/s on the Respondent which would remain suspended conditional on the Respondent apologising as directed pursuant to this subclause;
  - (d) Suspension of the Respondent from ATO activity for a maximum period of four weeks. For the avoidance of doubt the suspension may prohibit the Respondent from taking part in any one or more of the following ATO activities: future tennis tournaments, competitions, tours, teams, functions, training or practice sessions, and/or other events conducted or managed under the auspices of an ATO;
  - (e) A suspended sanction with any conditions attached to the suspended sanction that the Nominated Official deems necessary; and/or
  - (f) Any other such penalty that the Nominated Official considers appropriate.
- 13.19 The Nominated Official shall give its decision as soon as practicable and will deliver a statement of its written reasons (together with information regarding the appeal process) to the following:
- (a) the President or nominee of the ATO which established the Tribunal;
  - (b) the Complainant;

- (c) the Respondent; and
- (d) any other party affected by the decision.

#### Appealing a Decision by the Nominated Official

13.20 A Respondent may appeal against a sanction imposed under clause 13.18 of this Policy only on the following grounds:

- (a) that the Nominated Official relied on a clear error in their decision making process;
- (b) that the Nominated Official failed to comply with the procedures outlined in Part IV of this Policy; or
- (c) the sanction imposed by the Nominated Official is manifestly disproportionate to the breaching conduct.

13.21 The Respondent must, within 72 hours of the Nominated Official delivering his or her decision, give written notification of the Respondent's intention to Appeal (**Notice of Intention to Appeal**) to the TAICU and the ATO of the Nominated Official;

13.22 As soon as practicable following receipt of the Notice of Intention to Appeal, the TAICU must determine the appropriate body to convene the Appeal. The following principles apply:

- (a) *In the case of the Nominated Official being a member of the TAICU:* the Appeal will be heard by one member of the TA Tribunal Panel (see clause 14.3 for further detail on the TA Tribunal Panel); or
- (b) *In the case of the Nominated Official being someone other than a member of the TAICU:* the Appeal will be heard by one tribunal member who will be appointed by, at the discretion of the TAICU, any higher ranking ATO to that of the Nominated Official's ATO,

(in either case, **Appellant Tribunal Member**)

13.23 The Appellant Tribunal Member must be independent and unbiased, have one of the skills or qualifications referred to in clause 14.2 and not be a person of the type referred to in clause 14.4.

13.24 Within five days of lodging the Notice of Intention to Appeal, (or if there is urgency such shorter time as determined by the Appellant Tribunal Member) the Respondent must submit in writing the grounds of the Respondent's appeal, copies of which will be provided by the Nominated Official to the Appellant Tribunal Member and any other parties to the Complaint.

13.25 If any of the timelines in clause 13.21 and 13.24 are not met, the appeal shall be deemed to be withdrawn and the decision of the Nominated Official will be deemed to be upheld.

13.26 The Appellant Tribunal Member shall hear and determine the Appeal in whatever manner it considers appropriate (including by way of "on the papers" or otherwise) provided that the appeal accords with the principles of natural justice.

- 13.27 The Appellant Tribunal Member can also request up to two additional tribunal members be appointed to hear the appeal. The ATO convening the appeal will ensure such additional tribunal members are so appointed and satisfy the criteria set out in clause 13.23.
- 13.28 Following the hearing of the appeal, the Appellant Tribunal Member may maintain, withdraw, amend, decrease or increase any or all of the sanction/s imposed by the Nominated Official. However, any increase in sanction must be in accordance with clause 13.18 of this Policy.
- 13.29 The decision of the Appellant Tribunal Member is final and binding on the parties. There is no right to appeal the decision of the Appellant Tribunal Member.
- 13.30 Except as otherwise provided in this Policy, Appellant Tribunal Member and any others present at any appeal hearing shall keep all matters relating to the hearing, other than the decision and sanction (if any), confidential. Accordingly, matters such as the nature of the Complaint and the information obtained during the hearing, must not be disclosed to any person who is not a party to the Complaint.

## PART V – TRIBUNAL HEARINGS AND PROCEDURES

### 14. Tribunals

- 14.1 Upon referral of a Category A Complaint to a tribunal, the Nominated Official shall as soon as practicable:
- (a) Determine the composition of the tribunal, as per the requirements set out in clauses 14.2 – 14.4 of this Policy (**Tribunal**);
  - (b) Send to the Respondent(s) a notice setting out:
    - (i) the provisions of this Policy which the Respondent is alleged to have breached;
    - (ii) the date, time and place for the hearing of the alleged breach/es which shall be as soon as reasonably practicable after completing the investigation,
    - (iii) a copy of the Complaint and brief of evidence, and
    - (iv) a Notice of Intent to Attend, requiring the Respondent to advise the Nominated Official of their intention to attend the hearing,**(Notice of Hearing).**
  - (c) Send to the Complainant(s) and the Chairperson of the Tribunal a copy of the Notice of Hearing; and
  - (d) Send a Notice to Attend to any witnesses required to attend the hearing for the purpose of giving evidence.
- 14.2 The Tribunal for a hearing shall be appointed by the Nominated Official and shall be comprised of the following persons:
- (a) a lawyer or, if after reasonable attempts have been made to obtain one without success, a person with considerable previous experience in the legal aspects of a tribunal (who shall be the Chairperson);
  - (b) a person with a thorough knowledge of tennis or sport, and
  - (c) one person with experience and skills suitable to the function of a sports tribunal.
- 14.3 In the case of a Tribunal convened by TA, the Tribunal must be comprised of persons on the TA Tribunal Panel.
- 14.4 Notwithstanding clauses 14.2 and 14.3, the following persons cannot be Tribunal members:
- (a) a person who is or was within the last 12 months an employee or director of the ATO which is convening the Tribunal; and

- (b) a person who would, by reason of their relationship with the Complainant, Respondent, or otherwise, be reasonably considered to be biased (this may include but is not limited to a person who has provided within the last 12 months, or is currently providing, services for a fee to the ATO that is convening the Tribunal).

### Tribunal procedure

- 14.5 The Tribunal shall hear and determine the alleged breach in whatever manner it considers appropriate in the circumstances (including by way of teleconference, video conference or otherwise) provided that it does so in accordance with the principles of natural justice. The purpose of the hearing shall be to determine whether the Respondent is in breach of this Policy.
- 14.6 The Tribunal may not discuss and consider any prior breaches of TA National Policies at the hearing except as set out in Section 15 of this Policy.
- 14.7 The Respondent and any witnesses sent a Notice to Attend will be required to attend the hearing before the Tribunal at the time and place notified to them (however it is conducted). If after 30 minutes of the notified time for commencement of the hearing, the Respondent or any witness is not present, the Tribunal may elect to conduct the hearing in the absence of that person or adjourn the hearing and reconvene at a later date advised to the Respondent and witnesses.
- 14.8 The parties to the hearing shall include the Complainant, the Respondent, and the relevant ATO represented by an appointed advocate, whose role shall be to assist the Tribunal by presenting evidence, including material facts, and to make any submissions on behalf of the ATO in relation to the alleged breach/es, including the appropriateness of sanction (if applicable).
- 14.9 The Respondent is entitled to have a support person attend a tribunal hearing.
- 14.10 A party to the hearing may be represented at the hearing by a third party as long as that third party is not a legal practitioner. A party can only be legally represented at a hearing if the Tribunal considers and determines that it is necessary in the interests of justice.
- 14.11 Each party to the hearing shall bear their own costs in relation to the hearing.
- 14.12 The Tribunal must make a decision on the balance of probabilities (i.e. more probable than not) as to whether the Respondent committed the alleged breach/es.
- 14.13 The Tribunal shall give its decision as soon as practicable after the hearing and will deliver a statement of its written reasons (together with information regarding the appeal process) to the following:
  - (a) the President (or nominee) of the ATO which established the Tribunal;
  - (b) the Complainant;
  - (c) the Respondent, and
  - (d) any other party affected by the decision.
- 14.14 If the Tribunal finds the Complaint proven on the balance of probabilities (**Category A Breach**), it may impose any one or more of the sanctions set out in clause 15.3 of this Policy.

- 14.15 Each member of a Tribunal established under this Policy shall be indemnified by the ATO which appointed them from any claim or action for loss, damages, or costs made against them arising out of or in connection with their function as a member of the Tribunal under this Policy.
- 14.16 Except as otherwise provided in this Policy, all members of a Tribunal and others present at the Hearing shall keep all matters relating to the hearing, other than the decision and sanction (if any), confidential. Accordingly, matters such as the nature of the Complaint and information obtained as part of an investigation and before and during the tribunal hearing, must not be disclosed to any person who is not a party to the tribunal hearing.

## 15. Sanctions

- 15.1 If the Tribunal considers that the Respondent has committed a Category A Breach, the parties to the hearing may make submissions to the Tribunal in relation to sanctions.
- 15.2 During these submissions, the appointed advocate for the ATO may disclose any prior breaches of TA National Policies and this may be a factor for the Tribunal to consider when determining an appropriate sanction for the Category A Breach.
- 15.3 The Tribunal may impose on the Respondent any one or more of the following sanctions for a Category A Breach of this Policy:
- (a) direct that the Respondent attend counselling to address their conduct;
  - (b) direct the Respondent to apologise to the Complainant (or any other person). The Tribunal may also impose a suspended sanction/s on the Respondent which would remain suspended conditional on the Respondent apologising as directed pursuant to this subclause;
  - (c) recommend that the relevant ATO/s terminate the appointment of any role which the Respondent holds with those organisations;
  - (d) impose a monetary fine;
  - (e) impose a warning;
  - (f) censure the Respondent;
  - (g) in the case of a Respondent that is a Coach, direct an ATO to suspend or cancel the Coach's accreditation or affiliation for a period or indefinitely;
  - (h) expel the Respondent from membership of an ATO;
  - (i) withdraw any ranking points, awards, placings, records won in any tournaments, activities or events held or sanctioned by an ATO;
  - (j) direct the Respondent to repay all or part of any financial assistance (excluding any fee for service, wages or expenses) given to them by the Australian Sports Commission, any Federal or State funding agency, the Australian Olympic Committee, the Commonwealth

Games Committee, or an ATO or any other organisation which has provided funding to the Respondent;

- (k) suspend the Respondent from competition for such period as the Tribunals sees fit;
- (l) ban the Respondent from taking part in any tennis activity for a particular period of time determined by the Tribunal. For the purposes of this subclause, ATO activities may include but is not limited to future tennis tournaments, competitions, tours, teams, functions, training or practice sessions, and/or other events conducted or managed under the auspices of an ATO;
- (m) ban the Respondent from attending one or more tennis facilities and/or venues for a particular period of time determined by the Tribunal;
- (n) impose a fully or partially suspended sentence on the Respondent with any conditions the Tribunal considers appropriate;
- (o) cancellation of any TA or other ATO accreditation or licence or coaching accreditation;
- (p) a direction that any rights, privileges and benefits provided to that individual by TA or any other ATO may be suspended for a specified period;
- (q) a direction that any funding granted or given to the individual by TA or any other ATO will cease from a specified date; or
- (r) any other such penalty or discipline that the Tribunal considers appropriate.

## 16. Appeals

16.1 With respect to a Category A Complaint, the Respondent or the ATO may appeal (**Appellant**) a decision of a Tribunal at first instance (**Original Tribunal**) on the following grounds:

- (a) that the Original Tribunal relied on a clear error in their decision making process;
- (b) that the Original Tribunal failed to comply with the procedures outlined in Part IV of this Policy; or
- (c) the sanction imposed by the Original Tribunal under clause 15.3 of this Policy is manifestly disproportionate to the breaching conduct,

(**Appeal**).

### Appellant Tribunal procedure

16.2 The process for an Appeal is as follows:

- (a) the Appellant must, within 72 hours of the Original Tribunal delivering its decision give written notification to the TAICU of the Appellant's intention to Appeal (**Notice of Intention to Appeal**);



- (b) as soon as practicable following receipt of the Notice of Intention to Appeal, the TAICU must determine the appropriate body to convene the Appeal. The following principles apply:
  - (i) *In the case of the Original Tribunal being a tribunal convened by TA:* the Appeal will be heard by a TA Appeal Tribunal; or
  - (ii) *In the case of the Original Tribunal being any other tribunal:* the Appeal will be heard by an appeal tribunal convened by, at the discretion of the TAICU, any higher ranking ATO to that of the ATO which established the Original Tribunal.

(in either case, the **Appellant Tribunal**).

- (c) the TAICU or Nominated Official (as the case may be) must appoint the members of the Appellant Tribunal (including the Appellant Tribunal Chairperson). The Appellant Tribunal shall consist of persons who comply with clauses 14.2 – 14.4 of this Policy and who were not members of the Original Tribunal;
- (d) within five days of lodging the Notice of Intention to Appeal, (or if there is urgency such shorter time as determined by the Chairperson of the Appellant Tribunal) the Appellant must:
  - (i) pay an appeal fee of \$1000 (including GST) to TA; and
  - (ii) submit to the Chairperson of the Appellant Tribunal the grounds of the appeal in writing, copies of which will be provided by the Nominated Official to the parties to the Complaint; and
- (e) the Chairperson of the Appellant Tribunal must determine in his or her sole discretion whether the Appellant has satisfied the criteria for an appeal under clause 16.1 of this Policy. If so satisfied, the Chairperson (or their nominee) shall determine a place, time and date for the hearing of the Appeal and as soon as possible thereafter notify all parties to the Appeal in writing of such details.

16.3 If any of the timelines in clause 16.2 are not met, the Appeal shall be deemed to be withdrawn and the decision of the Original Tribunal will be deemed to be upheld.

16.4 The appeal fee referred to in subclause 16.2(d)(i) is refundable only in circumstances where the Appellant is successful in overturning the Original Tribunal's decision or reducing the sanction/s imposed by the Original Tribunal. Notwithstanding, TA may still withhold all or part of the appeal fee that is required to cover the costs of the Appeal (i.e. room hire, transport costs of members of the Appellant Tribunal, etc).

16.5 The Appellant Tribunal shall hear and determine the Appeal in whatever manner it considers appropriate (including by way of "on the papers" or otherwise) provided that the Appeal accords with the principles of natural justice.

16.6 Following the hearing of the Appeal, the Appellant Tribunal may do any one or more of the following:

- (a) dismiss the Appeal;
- (b) uphold the Appeal;

- (c) withdraw or amend any of the sanction/s imposed by the Original Tribunal;
  - (d) impose any additional sanction/s on the Appellant (the additional sanction/s must be from the list of sanction/s set out in clause 15.3 of this Policy); and/or
  - (e) reduce, increase or otherwise vary any sanction imposed by the Original Tribunal.
- 16.7 The Appellant Tribunal has no power to award costs and each party shall bear their own costs in relation to the Appeal.
- 16.8 The decision of the Appellant Tribunal is final and binding on the parties. There is no right to appeal the decision of the Appellant Tribunal. In addition, the parties agree that once an Appeal is concluded under this Policy, the parties waive any right to commence, institute or maintain an appeal of the Appellant Tribunal's decision on administrative or civil law grounds (however this provision does not prevent any criminal proceedings in relation to the Complaint or the Complainant pursuing civil remedies against the Respondent with respect to the conduct which is the subject of the Complaint).
- 16.9 Except as otherwise provided in this Policy, all members of an Appellant Tribunal and others present at the Appeal hearing shall keep all matters relating to the Appeal hearing, other than the decision and sanction (if any), confidential. Accordingly, matters such as the nature of the Complaint and Appeal and the information obtained during the Appeal hearing, must not be disclosed to any person who is not a party to the Appeal hearing.

## PART VI – MISCELLANEOUS MATTERS

### 17. Enforcement and publication of decisions

- 17.1 The TAICU and/or the ATO that established the Tribunal or Appeal Tribunal (as the case may be) shall, as soon as possible, notify all ATOs affected by any decision and sanction/s imposed under this Policy.
- 17.2 Every organisation required to adopt this Policy shall recognise and enforce any decision and sanction (if applicable) imposed by a decision maker (whether that be a Nominated Official, a Tribunal, Tribunal Chairperson or an Appeal Tribunal) under this Policy.

### 18. Review and Promotion

- 18.1 This Policy will be reviewed on a regular basis. In addition to this regular review, recommendations for changes to this Policy may be submitted to the TAICU via [integrity@tennis.com.au](mailto:integrity@tennis.com.au) for consideration. If changes are made, the Policy will be updated via Tennis Australia's website.
- 18.2 This Policy will be made available to the general public on Tennis Australia's website, and will be communicated to all Board and staff members of Tennis Australia and all ATOs.

### 19. Contact

- 19.1 Should a person wish to make any enquiries in relation to this Policy, please contact the TAICU via [integrity@tennis.com.au](mailto:integrity@tennis.com.au).

#### Version Control

Version Number:	
Effective Date:	12 February 2019

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

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

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

Jurisdiction	Agency
Australian Capital Territory	ACT Government - Working with Vulnerable People registration <a href="https://www.accesscanberra.act.gov.au/app/answers/detail/a_id/1804">https://www.accesscanberra.act.gov.au/app/answers/detail/a_id/1804</a> Ph: 13 22 91
New South Wales	Office of the Children's Guardian <a href="http://www.kidsguardian.nsw.gov.au">www.kidsguardian.nsw.gov.au</a> Ph: 02 9286 7219
Northern Territory	Northern Territory Police, Fire and Emergency Services <a href="https://nt.gov.au/emergency/community-safety/apply-for-a-working-with-children-clearance">https://nt.gov.au/emergency/community-safety/apply-for-a-working-with-children-clearance</a> Ph: 1800 SAFE NT (1800 723 368)
Queensland	Queensland Government – Blue Card Services <a href="https://www.bluecard.qld.gov.au/applications/applications.html">https://www.bluecard.qld.gov.au/applications/applications.html</a> Ph: 1800 113 611
South Australia	Department for Communities and Social Inclusion <a href="https://screening.dcsi.sa.gov.au/">https://screening.dcsi.sa.gov.au/</a> Ph: 1300 321 592
Tasmania	Department of Justice via Consumer, Building and Occupational Services <a href="https://www.cbos.tas.gov.au/topics/licensing-and-registration/registrations/work-with-vulnerable-people">https://www.cbos.tas.gov.au/topics/licensing-and-registration/registrations/work-with-vulnerable-people</a> Ph: 1300 654 499
Victoria	Department of Justice and Regulation <a href="http://www.workingwithchildren.vic.gov.au">www.workingwithchildren.vic.gov.au</a> Ph: 1300 652 879
Western Australia	Department of Communities <a href="https://workingwithchildren.wa.gov.au/">https://workingwithchildren.wa.gov.au/</a> Ph: 08 6217 8100

## ATTACHMENT B - Member Protection Declaration

Tennis Australia has a duty of care to its members and to the general public who interact with its employees, volunteers, members and others involved with Tennis Australia's activities. As part of this duty of care and as a requirement of Tennis Australia's Member Protection Policy, Tennis Australia and Australian Tennis Organisations must enquire into the background of persons who are appointed or seeking appointment, whether employed, contracted or otherwise in a paid or volunteer capacity.

I, ..... (name)

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

SINCERELY declare:

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

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

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

**OR**

I, ..... (name)

of .....(address)

Date of Birth ...../...../.....

SINCERELY declare:

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

Parent/Guardian/Carer Consent (in respect of person under the age of 18 years or in the care of a recognised carer)

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

Name: .....

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

## ATTACHMENT C - Information for Reporting Allegations of Child Abuse

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

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

We will treat any allegation of child abuse or neglect promptly, seriously and with a high degree of sensitivity.

All people working with an ATO in a paid or unpaid capacity have a duty to report any concerns to the appropriate authorities, following the steps outlined below.

### Step 1: Receive the allegation

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

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

### Step 2: Report the allegation

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

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

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

### **Step 4: Take internal action**

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

## ATTACHMENT D - State/Territory government agency contact details to report alleged Child Abuse

### Australian Capital Territory

ACT Police Non-urgent police assistance Ph: 131 444 <a href="http://www.afp.gov.au">www.afp.gov.au</a>	Office for Children, Youth and Family Services (Community Services) <a href="https://form.act.gov.au/smartforms/csd/child-concern-report">https://form.act.gov.au/smartforms/csd/child-concern-report</a> Ph: 1300 556 729 (24 hours)
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### New South Wales

New South Wales Police Non-urgent police assistance Ph: 131 444 <a href="http://www.police.nsw.gov.au">www.police.nsw.gov.au</a>	Department of Family and Community Services <a href="http://www.community.nsw.gov.au">www.community.nsw.gov.au</a> Ph: 132 111 (24 hours)
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### Northern Territory

Northern Territory Police Non-urgent police assistance Ph: 131 444 <a href="http://www.pfes.nt.gov.au">www.pfes.nt.gov.au</a>	Department of Children and Families <a href="http://www.childrenandfamilies.nt.gov.au">www.childrenandfamilies.nt.gov.au</a> Ph: 1800 700 250 (24 hours)
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### Queensland

Queensland Police Non-urgent police assistance Ph: 131 444 <a href="http://www.police.qld.gov.au">www.police.qld.gov.au</a>	Department of Communities, Child Safety and Disability Services <a href="http://www.communities.qld.gov.au/childsafety">www.communities.qld.gov.au/childsafety</a> Ph: 1800 811 810 After hours Ph: 1800 177 135 or 07 3235 9999 (24 hours)
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### South Australia

South Australia Police Non-urgent police assistance Ph: 131 444 <a href="http://www.sapolice.sa.gov.au">www.sapolice.sa.gov.au</a>	Department for Child Protection <a href="https://my.families.sa.gov.au/IDMProv/landing.html">https://my.families.sa.gov.au/IDMProv/landing.html</a> Ph: 13 14 78 After hours Ph: 13 16 11
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### Tasmania

Tasmania Police Non-urgent police assistance Ph: 131 444 <a href="http://www.police.tas.gov.au">www.police.tas.gov.au</a>	Department of Health and Human Services <a href="http://www.dhhs.tas.gov.au/children">www.dhhs.tas.gov.au/children</a> Ph: 1300 737 639 (24 hours)
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### Victoria

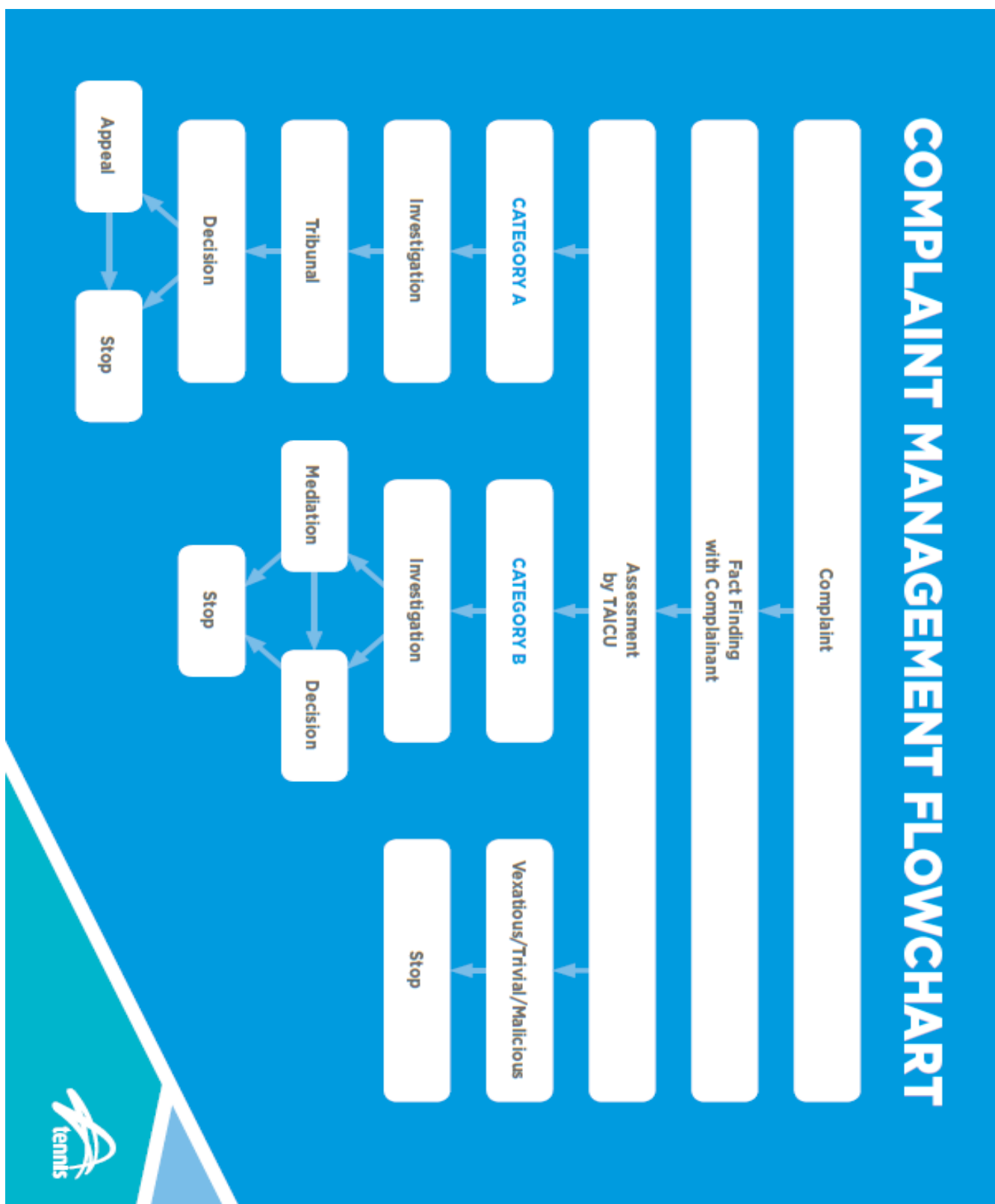
Victoria Police Non-urgent police assistance Ph: (03) 9247 6666 <a href="http://www.police.vic.gov.au">www.police.vic.gov.au</a>	Department of Health and Human Services <a href="http://providers.dhhs.vic.gov.au/child-protection">http://providers.dhhs.vic.gov.au/child-protection</a> Ph: 131 278 (24 hours)
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### Western Australia

Western Australia Police Non-urgent police assistance Ph: 131 444 <a href="http://www.police.wa.gov.au">www.police.wa.gov.au</a>	Department for Child Protection and Family Support <a href="http://www.dcp.wa.gov.au">www.dcp.wa.gov.au</a> Ph: 08 9222 2555 or 1800 622 258 After hours Ph: 1800 199 008
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## ATTACHMENT E – Complaint handling flowchart



## ATTACHMENT F - State/Territory Mediation service providers

Jurisdiction	Mediation service provider
Australian Capital Territory	Conflict Resolution Service <a href="http://www.crs.org.au/">http://www.crs.org.au/</a> Ph: 02 6190 7100
New South Wales	Community Justice Centres <a href="http://www.cjc.justice.nsw.gov.au/">http://www.cjc.justice.nsw.gov.au/</a> Ph: 1800 990 777
Northern Territory	Community Justice Centre <a href="https://www.darwin.nt.gov.au/community/community-justice-centre">https://www.darwin.nt.gov.au/community/community-justice-centre</a> Ph: 1800 000 473
Queensland	Queensland Government – Dispute Resolution Centres <a href="https://www.qld.gov.au/law/legal-mediation-and-justice-of-the-peace/settling-disputes-out-of-court/dispute-resolution-centres">https://www.qld.gov.au/law/legal-mediation-and-justice-of-the-peace/settling-disputes-out-of-court/dispute-resolution-centres</a> Ph: see website for location specific contact.
South Australia	State Sport Dispute Centre – Sport SA (centre specifically established for sporting clubs) <a href="https://www.sportsa.org.au/index.php">https://www.sportsa.org.au/index.php</a> Ph: 08 8353 7755
Tasmania	Positive Solutions (endorsed by Legal Aid Tasmania) <a href="http://www.positivesolutions.com.au/">http://www.positivesolutions.com.au/</a> Ph: 03 6223 5612
Victoria	Dispute Settlement Centre of Victoria <a href="https://www.disputes.vic.gov.au/">https://www.disputes.vic.gov.au/</a> Ph: 1300 372 888
Western Australia	Department of Local Government, Sport and Cultural Industries <a href="https://www.dsr.wa.gov.au/contact-us/department-of-sport-and-recreation">https://www.dsr.wa.gov.au/contact-us/department-of-sport-and-recreation</a> Ph: see website for location specific contact.

**Tennis Australia**

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Olympic Boulevard  
Private Bag 6060, Richmond  
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