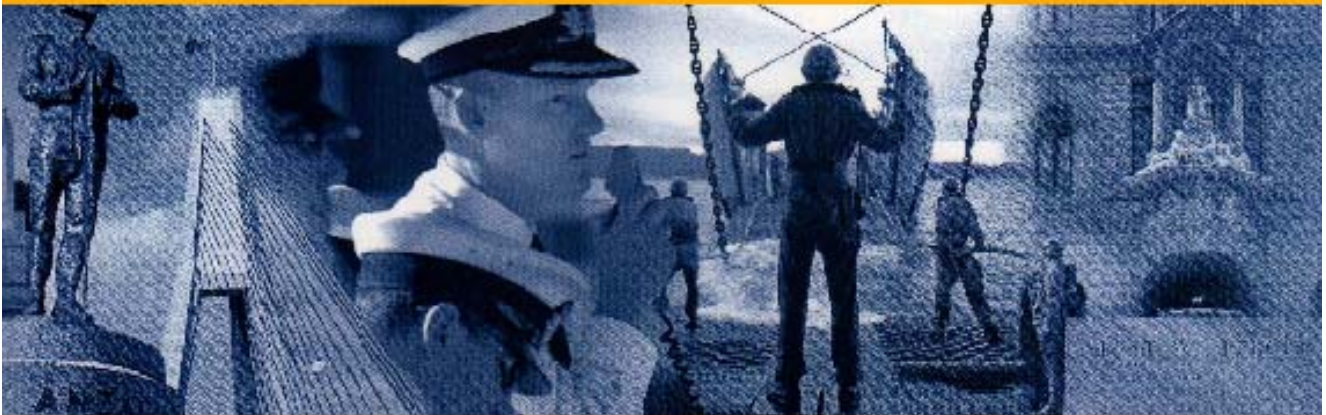




THE RETURNED AND SERVICES LEAGUE OF AUSTRALIA (NEW SOUTH WALES BRANCH)



DISPUTE RESOLUTION REGULATIONS

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RSL NSW

**DISPUTE RESOLUTION
REGULATION**

Prepared by:

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Foreword

General

1. This publication is designed to assist sub-Branch and subsidiaries with all aspects of the Dispute Resolution requirements of RSL NSW. The document brings together the required information in one reference.

Scope

2. This publication contains 7 chapters, each of which describes the appropriate requirements in full or directs the reader's attention to the appropriate publication or reference.

Gender

3. This publication has been prepared with gender-neutral language.

Associated Publications

4. This Regulation should be read in conjunction with the other publications, Acts or Regulations shown below. Sub-Branch Trustees, Executives and Committees have a statutory responsibility to comply with the following:

- a. The Constitution and By-Laws of the RSL (NSW Branch), hereinafter referred to as 'The Constitution'.
- b. The NSW Trustee Act 1925.
- c. The NSW Fair Trading Act 1987.
- d. The NSW Fair Trading (General) Regulation 2002.
- e. The NSW State Records Act 1998.
- f. The NSW Liquor Act 2007.
- g. The Australian Taxation Office Regulations.
- h. The Department of Gaming and Racing Charitable Fundraising Act 1991.
- i. The Privacy Act 1988.
- j. Australian Accounting Standards.
- k. International Financial Reporting Standards (IFRS).

- l. Common Law.
- m. N. E. Renton “Guide for Meetings and Organisations” Volume 2.
- n. N. E. Renton “ Clubs and Non-Profits - Keeping the Books”.
- o. RSL NSW Protocol and Procedures Regulation.
- p. RSL NSW Circulars, issued from time to time.

Amendment Certificate

1. Proposals for amendments or additions to the text of this publication should be made through District Councils, to the State Secretary. Authorised amendments to this publication will then be distributed to sub-Branches under cover of a RSL NSW Circular.
2. It is certified that the amendments promulgated in the undermentioned amendment lists have been made to this publication.

Amendment List		Amended By (Name)	Date Amended
Number	Date of Endorsement		

Note: Sections amended are signified by a black bar in the right-hand margin and the amendment list number at the bottom left of the page.

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CHAPTER 1

GENERAL

Purpose of this Regulation

1.1 This RSL NSW Dispute Resolution Regulation aims to maintain ethical and informed decision-making and responsible behaviours within our organisation. It outlines our commitment to a person's right to be treated with respect and dignity, to be safe and protected from abuse. This Regulation informs everyone involved in our organisation of his or her legal and ethical rights and responsibilities and the standards of behaviour that are required.

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

1.3 If a dispute (which, for the avoidance of doubt, does not include disciplinary action taken against a sub-Branch, Subsidiary or Member under this Constitution) arises between any Member or body under the control of, or governed by RSL NSW and another Member or RSL NSW, the dispute must be resolved in accordance with this By-Laws and Regulations.

To Whom this Regulation Applies To

1.4 This RSL NSW Regulation applies to the following people, whether they are in a paid or voluntary:

- (a) Members of all RSL NSW sub-Branches and Subsidiaries
- (b) Members of all RSL NSW Youth Clubs
- (c) Members of all RSL NSW Women's Auxiliaries
- (d) Members of all RSL NSW Day Clubs
- (e) All volunteers of RSL NSW

1.5 This Regulation will continue to apply to a person, even after they have stopped their association or employment with RSL NSW, if disciplinary action against that person has commenced.

Responsibilities of the Organisation

1.6 The RSL NSW, RSL sub-Branches and subsidiaries must:

- (a) Adopt, implement and comply with By-Law No. 3 and this Regulation;

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- (b) Publish, distribute and promote By-Law No. 3 and these Regulations and the consequences of breaches;
- (c) Promote and model appropriate standards of behaviour at all times;
- (d) Promptly deal with any breaches or complaints made under By-Law No. 3 and this Regulation in a sensitive, fair, timely and confidential manner;
- (e) Apply this Regulation consistently;
- (f) Recognise and enforce any penalty imposed under By-Law No. 3 and this Regulation;
- (g) Ensure that a copy of By-Law No. 3 and this regulation is available or accessible to the persons and bodies to whom this By-Law applies;
- (h) Use appropriately trained people to receive and manage complaints and allegations; and
- (i) Monitor and review By-Law No. 3 and this regulation at least annually.

Individual Responsibilities

1.7 Individuals bound by this policy are responsible for:

- (a) Making themselves aware of By-Law No. 3 and this Regulation and complying with its standards of behaviour;
- (b) Complying with our screening requirements and any State/territory Working with Children checks;
- (c) Placing the safety and welfare of children above other considerations;
- (d) Being accountable for their behaviour;
- (e) Following the procedures outlined in By-Law No. 3 and this Regulation if they wish to make a complaint or report a concern about possible child abuse, discrimination, harassment or other inappropriate behaviour; and
- (f) Complying with any decisions and/or disciplinary measures imposed under By-Law No. 3 and this Regulation.

Position Statements

1.8 Child Protection

- (a) RSL NSW acknowledges that our members and volunteers provide a valuable contribution to the positive experiences of children involved in our organisation. RSL NSW aims to continue this and to take measures to protect the safety and welfare of children participating in our activities by:
- Prohibiting any form of abuse against children;
 - Ensuring people have completed a satisfactory Working with Children Checks where the relevant state/territory law requires this;
 - Carefully selecting and screening people over the age of 16 years who work, coach or have regular unsupervised contact with children;
 - Promoting and enforcing our codes of behaviour, particularly for roles associated with juniors;
 - Responding to all reports and complaints of abuse promptly, seriously and confidentially;
 - Making information about child protection available, particularly for roles associated with children; and
 - Adopting practices that reduce risks and provide the greatest opportunity of having a child safe environment.
- (b) Anyone who reasonably suspects that a child has been or is being abused by someone within our organisation, is to report it immediately to the CEO RSL NSW, police or relevant government agency.
- (c) Descriptions of the sorts of activity which may be abuse are in the Definitions contained in this Regulation. If anyone suspects that a child is being abused by his or her parent/s, they are advised to contact the relevant government department for youth, family and community services in their state/territory.
- (d) A person will not be victimised for reporting possible child abuse and the privacy of all persons concerned will be respected. Our procedures for handling allegations of child abuse are outlined in this regulation.

1.9 Taking Images of Children

- (a) Images of children can be used inappropriately or illegally. The RSL NSW requires that individuals and associations, wherever possible, obtain permission from a child's parent/guardian before taking an image of a child that is not their own and ensure that the parent knows the way the image will be used. We also require the privacy of others to be respected and disallow the use of camera phones, videos and cameras inside changing areas, showers and toilet facilities.
- (b) If the RSL NSW uses an image of a child it will avoid naming or identifying the child or it will, wherever possible, avoid using both the first name and surname. We will not display personal information such as residential address, email address or telephone numbers without gaining consent from the parent/guardian. We will not display information about hobbies, likes/dislikes, school, etc as this information can be used as grooming tools by paedophiles or other persons. We will only use appropriate images of a child, relevant to our organization and ensure that the child is suitably clothed in a manner that promotes the organization and displays its successes.
- (c) We, the RSL NSW, require our Members, sub-Branches and subsidiaries to do likewise.

1.10 Anti-Discrimination and Harassment

- (a) The RSL NSW opposes all forms of harassment, discrimination and bullying. This includes treating or proposing to treat someone less favourably because of a particular characteristic; imposing or intending to impose an unreasonable requirement, condition or practice which has an unequal or disproportionate effect on people with a particular characteristic; or any behaviour that is offensive, abusive, belittling, intimidating or threatening – whether this is face-to-face, indirectly or via communication technologies such as mobile phone and computers. Some forms of harassment, discrimination and bullying, based on personal characteristics such as those listed in the Definitions contained in this Regulation, are against the law.
- (b) If any person feels they are being harassed or discriminated against by another person or organisation bound by this policy, please refer to our complaints procedure contained in this Regulation. This will explain what to do about the behaviour and how the RSL NSW will deal with the problem.

1.11 Sexual Relationships

- (a) RSL NSW takes the position that sexual relationships between coaches and the adult athletes that they coach should be avoided as these relationships can have harmful effects on the individual athlete involved, on other athletes and coaches and on the organization's/sport's public image. Such relationships may be intentionally or unintentionally exploitative due to a disparity between coaches and athletes in terms of authority, power, maturity, status, influence and dependence.
- (b) Should a sexual relationship exist between an athlete and coach, RSL NSW will consider whether any action is necessary. Factors that may be relevant in this consideration are the age and maturity of the athlete relative to the coach, the financial or emotional dependence of the athlete on the coach and the likelihood of the relationship having any adverse impact on the athlete and/or other athletes. If it is determined that the sexual relationship is inappropriate, action may be taken to stop the coaching relationship with the athlete. Action may include transfer, a request for resignation or dismissal from coaching duties.
- (c) In the event that an athlete attempts to initiate an intimate sexual relationship, the coach must take personal responsibility for discouraging such approaches, explaining the ethical basis for such action. The coach or athlete may wish to approach the RSL NSW if they feel harassed. Complaints procedure is contained in this Regulation

1.12 Pregnancy

- (a) Everyone bound by this policy must treat pregnant women with dignity and respect and any unreasonable barriers to participation by them in our organisation should be removed. We will not tolerate any discrimination or harassment against pregnant women.
- (b) While many organizational activities are safe for pregnant women, there may be particular risks that apply to some women during pregnancy. Those risks will depend on the nature of the activity and the particular pregnant woman's circumstances. Pregnant women should be aware that their own health and wellbeing and that of their unborn children, should be of utmost importance in their decision making about the way they participate in our activities.
- (c) The RSL NSW recommends that pregnant women wanting to participate in activities consult with their medical advisers, make themselves aware of the facts about pregnancy in recreation and ensure that they make informed decisions about participation. We will only require pregnant women to sign a disclaimer if we require other participants to sign one in similar circumstances. We will not require women to undertake a pregnancy test.

1.13 Gender Identity

- (a) Everyone bound by this policy must treat people who identify as transgender fairly and with dignity and respect. This includes acting with sensitivity and respect where a person is undergoing gender transition. We will not tolerate any unlawful discrimination or harassment of a person who identifies as transgender or transsexual or who is thought to be transgender. Descriptions of the types of behaviour which could be regarded as transgender discrimination or harassment are provided in the Definitions contained in this Regulation.
- (b) RSL NSW recognises that the exclusion of transgender people from participation in sporting events has significant implications for their health, well-being and involvement in community life. In general, the National Sporting Organisation for each sport will facilitate transgender persons participating in our sport with the gender with which they identify.
- (c) RSL NSW also recognises there is debate over whether a male to female transgender person obtains any physical advantage over other female participants. This debate is reflected in the divergent discrimination laws across the country. If issues of performance advantage arise, RSL NSW will seek advice on the application of those laws in the particular circumstances.
- (d) RSL NSW is aware that the International Olympic Committee (IOC) has established criteria for selection and participation in the Olympic Games. Where a transgender person intends competing at an elite level, we will encourage them to obtain advice about the IOC's criteria which may differ from the position taken by RSL NSW.
- (e) Drug testing procedures and prohibitions also apply to people who identify as transgender. A person receiving treatment involving a Prohibited Substance or Method, as described on the World Anti-Doping Agency's Prohibited List, should apply for a standard Therapeutic Use Exemption.

Complaints Procedures

1.14 Complaints

- (a) RSL NSW aims to provide a simple procedure for complaints based on the principles of procedural fairness (natural justice). Any person (a complainant) may report a complaint about a person/s or organisation bound by this policy (respondent). Such complaints should be reported to the **“Dispute Resolution Manager (DRM)”**.

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- (b) The lowest level at which a matter can be dealt with shall always be preferred. Therefore, if a complaint relates to behaviour or an incident that occurred at the:
 - (i) state level or involves people operating at the state level, then the complaint should be reported to and handled by the relevant state association in the first instance; or
 - (ii) sub-Branch level or involves people operating at the sub-Branch level then the complaint should be reported to and handled by the relevant sub-Branch in the first instance.
- (c) Only matters that relate to or occur at the national level and the most serious cases from sub-Branch and state level should be referred to the national body.
- (d) A complaint may be dealt with informally or formally. The complainant usually decides this unless the DRM considers that the complaint falls outside this policy and would be better dealt with another way and/or the law requires the complaint/allegation to be reported to an appropriate authority.
- (e) All complaints will be dealt with promptly, seriously, sensitively and confidentially. Our complaint procedures are outlined in Chapter 3.
- (f) Individuals and organisations may also pursue their complaint externally under anti-discrimination, child protection, criminal or other relevant legislation.

1.15 Vexatious Complaints & Victimisation

- (a) RSL NSW aims for our complaints procedure to have integrity and be free of unfair repercussions or victimisation. If at any point in the complaints process DSM considers that a complainant has knowingly made an untrue complaint or the complaint is vexatious or malicious, the matter may be referred to the State Council for appropriate action which may include disciplinary action against the complainant.
- (b) RSL NSW will take all necessary steps to make sure that people involved in a complaint are not victimised. Disciplinary measures can be imposed on anyone who harasses or victimises another person for making a complaint.

1.16 Mediation

- (a) RSL NSW aims to resolve complaints with a minimum of fuss. Complaints may be resolved by agreement between the people involved with no need for disciplinary action. Mediation allows those involved to be heard and to come up with mutually agreed solutions.
- (b) Mediation may occur before or after the investigation of a complaint. If a complainant wishes to resolve the complaint with the help of a mediator, the DRM will, in consultation with the complainant, arrange for a neutral third party mediator where possible. Lawyers are able to negotiate on behalf of the complainant and/or the respondent. More information on the mediation process is outlined in Chapter 4

1.17 Tribunals

- (a) A Tribunal may be convened to hear a formal complaint:
 - (i) referred to it by DRM or Chief Executive Officer (CEO) RSL NSW;
 - (ii) referred to it or escalated by a sub-Branch because of the serious nature of the complaint or unable to be resolved at the sub-Branch or RSL NSW policy directs it to be; and/or
 - (iii) for an alleged breach of this policy.
- (b) Our Tribunal procedure is outlined in Chapter 5 of this regulation and By-Law 4 of the RSL NSW Constitution.
- (c) A respondent may lodge an appeal only to the Appeal Tribunal in respect of a Tribunal decision. The decision of the Appeal Tribunal is final and binding on the people involved. Our appeals process is outlined in Chapter 5 of this regulation.
- (d) Every organisation bound by this policy will recognise and enforce any decision of a Tribunal or Appeal Tribunal under this policy.

What is a Breach of this Regulation?

1.18 It is a breach of this Regulation for any person or organisation to which this By-Law applies, to do anything contrary to this policy, including but not limited to:

- (a) Breaching the Codes of Behaviour (Chapter 2 of this regulation);
- (b) Bringing the organisation and the RSL NSW into disrepute or acting in a manner likely to bring the organisation and the RSL NSW into disrepute;

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- (c) Failing to follow RSL NSW policies (including this Regulation) and procedures for the protection, safety and welfare of Members and children;
- (d) Discriminating against, harassing or bullying (including cyber bullying) any person;
- (e) Victimising another person for reporting a complaint;
- (f) Engaging in a sexually inappropriate relationship with a person that they supervise or have influence, authority or power over;
- (g) Verbally or physically assaulting another person, intimidating another person or creating a hostile environment within the organisation;
- (h) Disclosing to any unauthorised person or organisation any RSL NSW information that is of a private, confidential or privileged nature;
- (i) Making a complaint they knew to be untrue, vexatious, malicious or improper;
- (j) Failing to comply with a penalty imposed after a finding that the individual or organisation has breached this policy; or
- (k) Failing to comply with a direction given to the individual or organisation during the discipline process.

Disciplinary Measures

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

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

Individual

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

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- (a) A direction that the individual make a verbal and/or written apology;
- (b) A written warning;
- (c) A direction that the individual attend counselling to address their behaviour;
- (d) A withdrawal of any awards, placings, records, achievements bestowed in any tournaments, activities or events held or sanctioned by the RSL NSW;
- (e) A demotion or transfer of the individual to another department, location, role or activity;
- (f) A suspension of the individual's membership or participation or engagement in a role or activity within the organisation;
- (g) Termination of the individual's membership, appointment or engagement;
- (h) A recommendation that the RSL NSW terminate the individual's membership, appointment or engagement;
- (i) In the case of a coach or official, a direction that the relevant organisation de-register the accreditation of the coach or official for a period of time or permanently;
- (j) A fine; and / or
- (k) Any other form of discipline that CEO, Tribunal or RSL NSW State Council considers appropriate.

Organisation

1.21 If a finding is made that RSL NSW, sub-Branch or subsidiary has breached its own regulation, one or more of the following forms of discipline may be imposed by the Tribunal or State Council;

- (a) A written warning;
- (b) A fine;
- (c) A direction that any rights, privileges and benefits provided to that organisation by the national body or other peak association be suspended for a specified period;
- (d) A direction that any funding granted or given to it by the RSL NSW ceases from a specified date;

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- (e) A direction that the NSW RSL cease to sanction events held by or under the auspices of that organisation;
- (f) A recommendation to RSL that its membership of the RSL NSW be suspended or terminated in accordance with the relevant constitution or rules; and/or
- (g) Any other form of discipline that the RSL NSW or RSL National considers to be reasonable and appropriate.

Factors to consider

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

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

Definitions

1.23 These definitions set out the meaning of words used in this Regulation and its attachments without limiting the ordinary and natural meaning of the words. State/Territory specific definitions and more detail on some of the words in these definitions can be sourced from the relevant State/Territory child protection commissions or equal opportunity and anti-discrimination commissions.

- (a) **Abuse** is a form of harassment and includes physical abuse, emotional abuse, sexual abuse, neglect, and abuse of power. Examples of abusive behaviour include bullying, humiliation, verbal abuse and insults.
- (b) **Subsidiaries** mean RSL Youth Clubs, RSL Day Clubs, RSL Women's Auxiliary.
- (c) **Child** means a person who is under the age of 18 years;

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- (d) **Child abuse** involves conduct which puts children at risk of harm (usually by adults, sometimes by other children) and often by those they know and trust. It can take many forms, including verbal and physical actions and by people failing to provide them with basic care. Child abuse may include:
- Physical abuse by hurting a child or a child's development (e.g. hitting, shaking or other physical harm; giving a child alcohol or drugs; or training that exceeds the child's development or maturity).
 - Sexual abuse by adults or other children where a child is encouraged or forced to watch or engage in sexual activity or where a child is subject to any other inappropriate conduct of a sexual nature (e.g. sexual intercourse, masturbation, oral sex, pornography, including child pornography, or inappropriate touching or conversations).
 - Emotional abuse by ill-treating a child (e.g. humiliation, taunting, sarcasm, yelling, negative criticism, name calling, ignoring or placing unrealistic expectations on a child).
 - Neglect (e.g. failing to give food, water, shelter or clothing or to protect a child from danger or foreseeable risk of harm or injury).
- (e) **Complaint** means a complaint made under item 1.14.
- (f) **Complainant** means a person making a complaint.
- (g) **Discrimination** means treating or proposing to treat someone less favourably because of a particular characteristic in the same or similar circumstances in certain areas of public life (Direct Discrimination) or imposing or intending to impose an unreasonable requirement, condition or practice that is the same for everyone but which has an unequal or disproportionate effect on individuals or groups with particular characteristics (Indirect Discrimination). The characteristics covered by discrimination law across Australia are:
- (i) Age;
 - (ii) Disability;
 - (iii) Family/carer responsibilities;
 - (iv) Gender identity/transgender status;
 - (v) Homosexuality and sexual orientation;
 - (vi) Irrelevant medical record;
 - (vii) Irrelevant criminal record;
 - (viii) Political belief/activity;
 - (ix) Pregnancy and breastfeeding;
 - (x) Race;
 - (xi) Religious belief/activity;
 - (xii) Sex or gender;

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- (xiii) Social origin;
- (xiv) Trade union membership/activity.

Examples of Discrimination

- **Age:** An organisation refuses to allow an older person to join simply because of age.
 - **Breastfeeding:** A member of the organisation who is breastfeeding a baby in the club rooms is asked to leave.
 - **Disability:** A person is overlooked because of mild epilepsy.
 - **Family responsibilities:** A club decides not to promote an employee because he has a child with a disability even though the employee is the best person for the job.
 - **Gender Identity:** A transgender contract worker is harassed when employees refuse to call her by her female name.
 - **Homosexuality:** A member is ostracised from his/her organisation or team after it becomes known that he is a homosexual or she is a lesbian.
 - **Marital Status:** A person is deliberately excluded from an organisation or team activities and social functions because he or she is single.
 - **Pregnancy:** A woman is dropped from a position/team when she becomes pregnant.
 - **Race:** An Italian referee is not permitted to referee games with a high proportion of Italian players on one team because of his race.
 - **Sex:** Specialist coaching is only offered to male players in a mixed team.
- (h) **Dispute Resolution Manager (DRM)** means a person appointed under this Regulation to investigate a complaint, a person trained to be the first point of contact for a person reporting a complaint under, or a breach of, this Regulation.
- (i) **Harassment** is any type of behaviour that the other person does not want and that is offensive, abusive, belittling or threatening. The behaviour is unwelcome and a reasonable person would recognise it as being unwelcome and likely to cause the recipient to feel offended, humiliated or intimidated.

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

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

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

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

- holding a competitive sporting activity for females only who are under 12 years of age or of any age where strength, stamina or physique is relevant.
- not selecting a participant if the person's disability means he or she is not reasonably capable of performing the actions reasonably required for that particular sporting activity.
- Requesting, assisting, instructing, inducing or encouraging another person to engage in discrimination or harassment may also be against the law.
- It is also a breach of discrimination law to victimise a person who is involved in making a complaint of discrimination or harassment. Example: a player is ostracised by her male coach for complaining about his sexist behaviour or for supporting another player who has made such a complaint.
- Public acts of racial hatred which are reasonably likely to offend, insult, humiliate or intimidate are also prohibited. This applies to spectators, participants or any other person who engages in such an act in public. Some states and territories also prohibit public acts that vilify on other grounds such as homosexuality, gender identity, HIV/AIDS, religion and disability – see vilification.

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- (j) **Member** means member of the RSL NSW and its subsidiaries.
- (k) **Natural justice (also referred to as procedural fairness)** incorporates the following principles:
- (i) both the Complainant and the Respondent must know the full details of what is being said against them and have the opportunity to respond;
 - (ii) all relevant submissions must be considered;
 - (iii) no person may judge their own case;
 - (iv) the decision maker/s must be unbiased, fair and just; and
 - (v) the penalties imposed must be fair.
- (l) **Police check** means a national criminal history record check conducted as a pre-employment, pre-engagement or current employment background check on a person.
- (m) **Respondent** means the person who is being complained about.
- (n) **Role-specific codes of conduct (or behaviour)** means standards of conduct required of certain roles (e.g. administrators/coaches).
- (o) **Sexual harassment** means unwanted, unwelcome or uninvited behaviour of a sexual nature which makes a person feel humiliated, intimidated or offended. Sexual harassment can take many different forms and may include unwanted physical contact, verbal comments, jokes, propositions, display of pornographic or offensive material or other behaviour that creates a sexually hostile environment.
- Sexual harassment is not behaviour based on mutual attraction, friendship and respect. If the interaction is between consenting adults, it is not sexual harassment.
- (p) **Sexual offence** means a criminal offence involving sexual activity or acts of indecency including but not limited to (due to differences under state/territory legislation):
- Rape
 - Indecent assault
 - Sexual assault
 - Assault with intent to have sexual intercourse
 - Incest
 - Sexual penetration of child under the age of 16
 - Indecent act with child under the age of 16

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- Sexual relationship with child under the age of 16
 - Sexual offences against people with impaired mental functioning
 - Abduction and detention
 - Procuring sexual penetration by threats or fraud
 - Procuring sexual penetration of child under the age of 16
 - Bestiality
 - Soliciting acts of sexual penetration or indecent acts
 - Promoting or engaging in acts of child prostitution
 - Obtaining benefits from child prostitution
 - Possession of child pornography
 - Publishing child pornography and indecent articles.
- (q) **This Regulation** means this Dispute Resolution Regulation.
- (r) **Transgender** is a general term applied to individuals and behaviours that differ from the gender role commonly, but not always, assigned at birth. It does not imply any specific form of sexual orientation.
- (s) **Victimisation** means subjecting a person or threatening to subject a person to any detriment or unfair treatment because that person has or intends to pursue their rights to make a complaint under government legislation (e.g. anti-discrimination) or under this Policy or for supporting such a person.
- (t) **Vilification** involves a person or organisation doing public acts to incite hatred towards, serious contempt for or severe ridicule of a person or group of persons having any of the attributes or characteristics within the meaning of discrimination. Public acts that may amount to vilification include any form of communication to the public and any conduct observable by the public.

CHAPTER 2

CODES OF BEHAVIOUR

Introduction

2.1 This Chapter is designed to highlight the codes of behaviour that affect RSL NSW, a sub-Branch or other RSL subsidiary.

2.2 RSL NSW expects high standards of behaviour from all people involved in RSL activities and sports and it is vital these expectations are met and the integrity maintained.

2.3 Regardless of the nature of a person's involvement, there are four guiding principles that lead to appropriate behaviour: Fairness, Respect, Responsibility and Safety. The following Codes of Behaviour has been developed to reflect and uphold these principles and assist in retaining the integrity and enjoyable aspects of RSL activities and sports.

2.4 RSL NSW has previously publicised a number of different Codes of Behaviour / Conduct / Ethics that were utilised by sub-Branches and subsidiaries to help establish an expected standard of behaviour for their Members and participants. In an effort to help reduce the confusion resulting from multiple and differing codes for the same roles or for people involved in multiple roles or sports, RSL NSW has reviewed the various suggested Codes and developed a template that is consistent and applicable to all roles and levels within all RSL activities and sports.

2.5 The Codes of Behaviour to be used by RSL sub-Branches and subsidiaries are a benchmark in the development of their own code of behaviour. RSL NSW Sporting organisations may adopt this Code in its entirety or may adapt the Code to suit their own needs and circumstances. It is recommended that subsidiaries gain input from those impacted upon by their code as this will assist in gaining greater awareness and ownership. Some RSL sporting groups will also be bound by the sports association under their national or state bodies as part of their participation process.

2.6 In consistently enforcing the Code, organisations will assist in providing safe and appropriate environments and quality services to their members, stakeholders and customers.

RSL NSW Code of Behaviour for RSL Executive & Committee Members.

2.7 The Executive & Committee have a legal and moral responsibility to manage an RSL sub-Branch in the best interests of the community it serves. The Executive & Committee will demonstrate professional ethical behaviour at all times in their responsibilities to the sub-Branch, in their professional relationships with each other, and in their professional service to the community and will be required to adhere to this code of ethics.

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The Executive & Committee shall:

- (a) Be diligent, attend Committee meetings and devote sufficient time to preparation for meetings to allow for full and appropriate participation in the Committee's decision-making.
- (b) Observe confidentiality relating to non-public information acquired by them in their role as Committee Members and not disclose such information to any other person.
- (c) Meet regularly to monitor the performance of management and the organisation as a whole. To do this the Executive & Committee will ensure that appropriate monitoring and reporting systems are in place and that these are maintained and utilised to provide accurate and timely information to the Committee.
- (d) Ensure there is an appropriate separation of duties and responsibilities between itself and senior management and that no individual has unfettered powers of decision-making.
- (e) Ensure that the independent views of Executive & Committee members are given due consideration and weight.
- (f) Ensure that stakeholders are provided with an accurate and balanced view of the organisation's performance, including both financial and service provision.
- (g) Regularly review its own performance as the basis for its own development and quality assurance. Individual Executive & Committee Members should also review their own performance with a view to ensuring a suitable contribution to Committee deliberations and decision-making and, if found lacking, should either pursue training or assistance to improve their performance or resign.
- (h) Carry out its meetings in such a manner as to ensure fair and full participation of all Executive & Committee members.
- (i) Ensure that the organisation's assets are protected via a suitable risk management strategy.
- (j) Ensure that personal and financial interests do not conflict with the duty to the organisation.

RSL NSW Code of Behaviour for RSL Pensions Officers, Welfare Officers, Case Officers, Advocates

2.8 That RSL Pensions Officers, Welfare Officers, Case Officers, Advocates and any members of the League will: -

- (a) Give full, accurate, truthful and relevant information to veterans and their families in relation to claims, appeals and applications for other benefits, including an assessment of the likelihood of success;
- (b) Encourage veterans, their families and others to give full, accurate, truthful and relevant information when applying for benefits;
- (c) Allow the veteran, spouse or family member to make the decision to apply for benefits or to lodge an appeal;
- (d) Ensure that all contact with members of the veteran community, staff or government agencies, providers of services and general community is conducted in a professional manner;
- (e) Ensure that all available relevant details and documents are submitted with claims and applications for benefits;
- (f) Only undertake work to the level at which they have been trained and have demonstrated competence;
- (g) Maintain and expand their knowledge base by further training and by seeking advice from the Department of Veterans' Affairs, staff of government agencies or other service providers;
- (h) Abide by the provisions of the Freedom of Information Act when seeking documents from government agencies;
- (i) Keep personal information secure and not disclose such information to others without express consent;
- (j) Promote the interests of the veteran community by communicating openly and honestly with the Department of Veterans' Affairs, staff of government agencies or other service providers and by complying promptly with proper requests for information; and
- (k) Provide their services without any fees, charges or gratuity.

RSL NSW Sporting Code of Behaviour

2.9 This Code of Behaviour is intended to be the minimum standard for anyone involved in sport represented under the banner of RSL NSW.

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- (a) Operate within the rules and spirit of each sport, promoting fair play over winning at any cost.
- (b) Encourage and support opportunities for people to learn appropriate behaviours and skills.
- (c) Support opportunities for participation in all aspects of the sport.
- (d) Treat each person as an individual.
- (e) Display control and courtesy to all involved with the sport.
- (f) Respect the rights and worth of every person regardless of their gender, ability, cultural background or religion.
- (g) Respect the decisions of officials, coaches and administrators in the conduct of the sport.
- (h) Wherever practical, avoid unaccompanied and unobserved one-on-one activity (when in a supervisory capacity or where a power imbalance will exist) with people under the age of 18 years.
- (i) Adopt appropriate and responsible behaviour in all interactions.
- (j) Adopt responsible behaviour in relation to alcohol and other drugs.
- (k) Act with integrity and objectivity, and accept responsibility for one's own decisions and actions.
- (l) Ensure decisions and actions contribute to a safe environment.
- (m) Ensure decisions and actions contribute to a harassment free environment.
- (n) Do not tolerate harmful or abusive behaviours.

Athletes

- (a) Give your best at all times.
- (b) Participate for your own enjoyment and benefit.

Coaches

- (a) Place the safety and welfare of the athletes above all else.
- (b) Help each person (athlete, official etc) reach their potential - respect the talent, developmental stage and goals of each person and compliment and encourage with positive and supportive feedback.

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- (c) Any physical contact with a person should be appropriate to the situation and necessary for the person's skill development.
- (d) Be honest and do not allow qualifications to be misrepresented.

Officials

- (a) Place the safety and welfare of the athletes above all else.
- (b) Be consistent and impartial when making decisions.
- (c) Address unsporting behaviour and promote respect for all people.

Administrators

- (a) Act honestly, in good faith and in the best interests of the sport as a whole.
- (b) Ensure that any information acquired or advantage gained from the position is not used improperly.
- (c) Conduct responsibilities with due care, competence and diligence.
- (d) Do not allow prejudice, conflict of interest or bias to affect your objectivity.

Parents

- (a) Encourage children to participate and have fun.
- (b) Focus on the child's effort and performance rather than winning or losing.
- (c) Never ridicule or yell at a child for making a mistake or losing a competition.

Spectators

- (a) Respect the performances and efforts of all people.
- (b) Reject the use of violence in any form, whether it is by spectators, coaches, officials or athletes.

Screening / Working with Children Check Requirements

Relevant to RSL Youth Clubs and their aligned sporting groups.

Background

2.10 Child protection is about keeping children safe from harm/abuse. Child abuse is illegal and all states and territories have their own systems and laws that cover screening and/or the reporting and investigation of cases of child abuse.

2.11 Working with Children Check (WWCC) laws aim to prevent people who pose a risk from working with children as paid employees or volunteers. In New South Wales laws require individuals involved in areas such as sport and recreation to undertake a check to determine their suitability to work (in a paid or volunteer capacity) with children. This is done by checking certain criminal history and other matters. In some states this also involves reviewing relevant findings from disciplinary proceedings. There are also requirements placed on organisations.

2.12 Please be aware that state and territory WWCC requirements may also apply to individuals who visit states with screening laws. For example, if a state association or club takes players U18 into Victoria for training camps, competition or other activities, those travelling with the teams must comply with Victorian law.

2.13 The state WWCC requirements apply regardless of our national, state or club Member Protection Policy.

Working with Children - Child Protection Requirements

The following information was updated in April 2009. It is subject to change at any time.

2.14 All organisations within NSW that employ people in child-related employment (in a paid or unpaid capacity) must meet the requirements of the Working with Children Check (WWCC). Child related employment is work which primarily involves direct unsupervised contact with children. The WWCC involves three components:

- (a) **Ensuring** all paid and unpaid employees sign a **Prohibited Employment Declaration** which states they are not prohibited from working with children.
- (b) **Submitting** all applicants for **paid** employment to NSW Sport and Recreation for a WWCC background check. NSW Sport and Recreation only carries out checks for paid employees.

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- (c) **Reporting** relevant employment proceedings for any paid and unpaid employees to the NSW Commission for Children and Young People. A relevant employment proceeding involves any reportable conduct committed outside of work as well as in the workplace with or in the presence of children.

2.15 Sporting organisations are responsible for managing the WWCC process. Individuals cannot apply for a WWCC directly. Sporting organisations should register with the **NSW Commission for Children and Young People** providing a contact who will receive the information on the background checks.

2.16 A WWCC is valid for employment in that position within the organisation. Short-term employees (where that person is being employed for periods of less than six months and returning for short periods throughout a 12 month period) only need to be checked **once** every 12 months.

For more information, including the required forms:

- (a) www.kids.nsw.gov.au or 02 - 9286 7219
- (b) www.dsr.nsw.gov.au/children/resources.asp or 02 - 9006 3700

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CHAPTER 3

COMPLAINT HANDLING PROCEDURES

Introduction

3.1 All complaints will be kept confidential and will not be disclosed to another person without the complainant's consent except if law requires disclosure or if disclosure is necessary to effectively deal with the complaint.

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

3.3 If you wish to remain anonymous, the RSL NSW may have difficulty assisting in the resolution of a complaint. Procedural fairness (natural justice) means that the RSL NSW is required to provide the person/people being complained about with full details of the complaint so they have a fair chance to respond.

Informal Approaches

3.4 **Step 1: Talk with the other person** (where this is reasonable and appropriate)

In the first instance, you (the Complainant) should try to sort out the problem with the person or people involved (respondent) if you feel able to do so.

3.5 **Step 2: Contact a Dispute Resolution Manager**

Talk with RSL NSW Dispute Resolution Manager if:

- (a) the first step is not possible/reasonable;
- (b) you are not sure how to handle the problem by yourself;
- (c) you want to talk confidentially about the problem with someone and obtain more information about what you can do; or
- (d) the problem continues after you tried to approach the person or people involved.

The Dispute Resolution Manager will:

- (e) take confidential notes about your complaint;
- (f) try to find out the facts of the problem;
- (g) ask what outcome/how you want the problem resolved and if you need support;
- (h) provide possible options for you to resolve the problem;

- (i) act as a support person if you so wish;
- (j) refer you to an appropriate person (e.g. Mediator) to help you resolve the problem, if necessary;
- (k) inform the relevant government authorities and/or police if required by law to do so; and
- (l) maintain confidentiality.

3.6 **Step 3: Outcomes from initial contact**

After talking with the Dispute Resolution Manager, you may decide:

- (a) there is no problem;
- (b) the problem is minor and you do not wish to take the matter forward;
- (c) to try and work out your own resolution (with or without a support person such as a DRM);
- (d) to seek a mediated resolution with the help of a third person (such as a mediator); or
- (e) to seek a formal approach.

Formal Approaches

3.7 **Step 4: Making a Formal complaint**

If your complaint is not resolved or informal approaches are not appropriate or possible, you may:

- (a) make a formal complaint in writing to CEO / State Secretary, or
- (b) approach a relevant external agency such as an anti-discrimination commission, for advice.

On receiving a formal complaint and based on the material you have provided, the CEO / State Secretary will decide whether:

- (c) they are the most appropriate person to receive and handle the complaint;
- (d) the nature and seriousness of the complaint warrants a formal resolution procedure;

- (e) to appoint a person to investigate (gather more information on) the complaint;
- (f) to refer the complaint to mediation;
- (g) to refer the complaint to a hearings tribunal;
- (h) to refer the matter to the police or other appropriate authority; and/or
- (i) to implement any interim arrangements that will apply until the complaint process set out in these Procedures is completed.

In making the decision(s) outlined above, the CEO / State Secretary will take into account:

- (j) whether they have had any personal involvement in the circumstances which means that someone else should handle the complaint;
- (k) your wishes, and the wishes of the respondent, regarding the manner in which the complaint should be handled;
- (l) the relationship between you and the respondent (for example an actual or perceived power imbalance between you and the respondent);
- (m) whether the facts of the complaint are in dispute; and
- (n) the urgency of the complaint, including the possibility that you will be subject to further unacceptable behaviour while the complaint process is underway.

If CEO / State Secretary is the appropriate person to handle the complaint they will, to the extent that these steps are necessary:

- (o) put the information they've received from you to the person/people you're complaining about and ask them to provide their side of the story;
- (p) decide if they have enough information to determine whether the matter alleged in your complaint did or didn't happen; and/or
- (q) determine what, if any, further action to take. This action may include disciplinary action in accordance with this policy.

3.8 Step 5: Investigation of the complaint

- (a) A person appointed under 3.7 (e) will conduct an investigation and provide a written report to CEO / State Secretary who will determine what further action to take;

- (b) If the complaint is referred to mediation, it will be conducted in accordance with Chapter 4 of this Regulation or as otherwise agreed by you and the respondent and the mediation provider;
- (c) If the complaint is referred to a hearings tribunal, the hearing will be conducted in accordance with Chapter 5 of this regulation and By-Law 4 of RSL NSW Constitution;
- (d) If the complaint is referred to the police or other appropriate authority, the RSL NSW will use its best endeavours to provide all reasonable assistance required by the police or other authority.

3.9 Any costs relating to the complaint process set out in this Regulation (e.g. investigation and/or mediation and/or hearings tribunal) may have to be met by the complainant unless otherwise stated. The CEO / State Secretary will advise of cost distribution on a case-by-case basis taking into consideration the complaint, reasonable expectations of complainant and economical methods.

3.10 **Step 6: Reconsideration of initial outcome/investigation or appeal**

If, under the formal complaint process, mediation is unsuccessful, you may request that CEO reconsider the complaint in accordance with 3.6.

You or the respondent(s) may be entitled to appeal. The grounds and process for appeals under this regulation are set out in Chapter 5.

3.11 **Step 7: Documenting the resolution**

Dispute Resolution Manager will document the complaint, the process and the outcome. This document will be stored in a confidential and secure place. If the complaint was dealt with at a state/district level, the information will be stored in the state association office. If the matter is of a serious nature, or if the matter was escalated to and/or dealt with at the national level, the original document will be stored at the national office with a copy stored at the state office.

External Approaches

3.12 There are a range of other options available depending on the nature of your complaint. If you feel that you have been harassed or discriminated against, you can seek advice from your State or Territory anti-discrimination commission without being obliged to make a formal complaint. If the commission advises you that the problem appears to be harassment within its jurisdiction, you may lodge a formal complaint with the commission.

3.13 Once a complaint is received by an anti-discrimination commission, it will investigate. If it appears that unlawful harassment or discrimination has occurred, the commission will conciliate the complaint confidentially. If this fails, or is inappropriate, the complaint may go to a formal hearing where a finding will be made. The tribunal will decide upon what action, if any, will be taken. This could include financial compensation for such things as distress, lost earnings or medical and counselling expenses incurred.

3.14 If you do lodge a complaint under anti-discrimination law, you may use an appropriate person (e.g. a DRM) as a support person throughout the process. It is also common to have a legal representative, particularly at the hearing stage of a complaint. You could also approach another external agency such as the police.

Investigation Process

3.15 If an investigation needs to be conducted to gather more information the following steps will be followed:

- (a) We will provide a written brief to the investigator clarifying terms of engagement and roles and responsibilities. The investigator will:
 - (i) Interview the complainant and record the interview in writing.
 - (ii) Convey full details of the complaint to the respondent (s) so that they can respond.
 - (iii) Interview the respondent to allow them to answer the complaint, and record the interview in writing.
 - (iv) Obtain statements from witnesses and other relevant evidence to assist in a determination, if there is a dispute over the facts
 - (v) Make a finding as to whether the complaint is:
 - substantiated (there is sufficient evidence to support the complaint);
 - inconclusive (there is insufficient evidence either way);
 - unsubstantiated (there is sufficient evidence to show that the complaint is unfounded); and/or
 - mischievous, vexatious or knowingly untrue.
 - (vi) Provide a report to CEO documenting the complaint, investigation process, evidence, finding and, if requested, recommendations.
- (b) We will provide a report to the complainant and the respondent(s) documenting the complaint, the investigation process and summarising key points that are substantiated, inconclusive, unsubstantiated and/or mischievous.
- (c) The complainant and the respondent(s) will be entitled to support throughout this process from their chosen support person/adviser.

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- (d) The complainant and the respondent(s) may have the right to appeal against any decision based on the investigation. Information on our appeals process is in Chapter 5 of this regulation.

Procedure for Handling Allegations of Child Abuse

3.16 An allegation of child abuse is a very serious matter and must be handled with a high degree of sensitivity. It is not the responsibility of anyone working in the RSL NSW in a paid or unpaid capacity to decide whether or not child abuse has taken place. However, there is a responsibility to act on any concerns by reporting these to the appropriate authorities. The following outlines the key steps to follow. More information can be obtained from State or Territory government agencies.

3.17 Step 1 – Initial Receipt of an Allegation

If a child or young person discloses an allegation involving harm or abuse to them or another child, then it is crucial that you:

- (a) Stay calm;
- (b) Listen, be supportive and do not dispute what the child says;
- (c) Reassure the child that what has occurred is not the fault of the child;
- (d) Be honest with the child and explain that other people may need to be told in order to stop what is happening;
- (e) Ensure you are clear about what the child has said but do not elicit detailed information, ask leading questions or offer an opinion;
- (f) Act promptly to accurately record the discussion in writing;
- (g) Do not discuss the details with any person other than those detailed in these procedures; and
- (h) Do not contact the alleged offender.

3.18 Step 2 – Report allegations

- (a) Immediately report any allegation or disclosure of child abuse or situation involving a child at risk of harm to the police and/or government child protection agency. You may need to report to both.
- (b) Contact the relevant child protection agency or police for advice if there is any doubt about whether the complaint should be reported (for example, the allegation may relate to poor/inappropriate practice).

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- (c) If the child's parent/s is suspected of committing the abuse, you should report the allegation to the relevant government agency.
- (d) If the allegation involves anyone to whom our policy applies, then also report the allegation to the CEO of the RSL NSW so that they can manage the situation (e.g. contact the parents following advice from the authorities, deal with any media enquiries and manage steps 3 and 4).

3.19 Step 3 – Protect the child and manage the situation

- (a) The CEO will assess the risks and take interim action to ensure the child's/children's safety. Action the CEO may implement includes redeployment of the alleged offender to a non-child related position, supervision of the alleged offender or removal/suspension from their duties until the allegations are finally determined. The CEO will consider the kind of support that the children and parents may need (e.g. counselling, helplines, support groups).
- (b) The CEO, will address the support needs of the alleged offender.
- (c) The CEO, will also put in place measures to protect the child and the person against whom the complaint is made from victimisation and gossip. If the person is stood down, it should be made clear to any persons aware of the incident that this does not mean the respondent is guilty and a proper investigation will be undertaken.

3.20 Step 4 – Internal action

- (a) Where there is an allegation made against a person to whom this policy applies, there may be three types of investigations:
 - (i) Criminal (conducted by police)
 - (ii) Child protection (conducted by child protection authority)
 - (iii) Disciplinary or misconduct (conducted by RSL NSW)
- (b) Irrespective of the findings of the child protection and/or police inquiries, the CEO will assess the allegation to decide whether the person should be reinstated, banned, have their employment or position terminated or any other action.
- (c) The decision-maker(s) will be CEO, or RSL State Council or Independent Tribunal of the RSL NSW and it will consider all the information, including the findings of the police, government agency and/or court, and determine a finding, recommend action and explain its rationale for the action. This may be a difficult decision particularly where there is insufficient evidence to uphold any action by the police.

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- (d) If disciplinary action is to be taken, the procedures outlined in this regulation will be followed.
- (e) If disciplinary action is taken, the CEO will advise and provide a report to the relevant government authority should this be required (e.g. the NSW Commission for Children and Young People requires notification of relevant employment proceedings).

CHAPTER 4

MEDIATION

Introduction

4.1 Mediation is a process during which people in conflict are helped to communicate with each other to identify the areas of dispute and to make decisions about resolving it. This chapter outlines the general procedure of mediation that will be followed by RSL NSW.

4.2 If mediation is chosen, the DRM will, under the direction of the CEO and in consultation with the complainant and the respondent(s), arrange for a mediator. The experience, qualifications and professional status of the mediator will be selected in proportion to the complaint.

4.3 The mediator's role is to assist the complainant and respondent(s) reach an agreement on how to resolve the problem. The mediator, in consultation with the complainant and respondent(s), will choose the procedures to be followed during the mediation. At a minimum, an agenda of issues for discussion will be prepared by the mediator.

4.4 The mediation will be conducted confidentially and without prejudice to the rights of the complainant and the respondent(s) to pursue an alternative process if the complaint is not resolved.

4.5 At the end of a successful mediation the mediator will prepare a document that sets out the agreement reached which will be signed by them as their agreement.

4.6 If the complaint is not resolved by mediation, the complainant may:

- (a) Write to CEO to request that the DRM reconsider the complaint in accordance with 3.6 of this regulation; or
- (b) Approach an external agency such as an anti-discrimination commission.

4.7 Mediation will **not** be recommended if:

- (a) The respondent has a completely different version of the events and will not deviate from these;
- (b) The complainant or respondent are unwilling to attempt mediation;
- (c) Due to the nature of the complaint, the relationship between the complainant and the respondent(s) or any other relevant factors, the complaint is not suitable for mediation; or
- (d) The matter involves proven serious allegations, regardless of the wishes of the complainant.

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CHAPTER 5

HEARINGS AND APPEALS PROCEDURE

Introduction

5.1 The following will be followed by hearings tribunals established by the NSW RSL to hear Member protection related complaints.

Preparation for Tribunal Hearing

5.2 A Tribunal Panel will be constituted following the rules outlined in RSL NSW Constitution By-Law No 4 (1.1 to 1.5), to hear a complaint that has been referred to it by CEO or DRM. The number of Tribunal members required to be present throughout the hearing will be as outlined in RSL NSW Constitution.

5.3 The Tribunal members will be provided with a copy of all the relevant correspondence, reports or information received and sent by CEO or DRM relating to the complaint/allegations.

5.4 The Tribunal will be scheduled as soon as practicable but must allow adequate time for the person being complained about (respondent(s)) to prepare their case for the hearing.

5.5 The Tribunal will not include any person who has any actual or perceived conflict of interest or bias regarding the matter.

5.6 The Tribunal Registrar will inform the respondent(s) in writing that a tribunal hearing will take place. The notice will outline:

- (a) That the person has a right to appear at the tribunal hearing to defend the complaint/allegation;
- (b) Details of the complaint and details of all allegations and the clause of any policy or rule allegedly breached;
- (c) The date, time and venue of the tribunal hearing;
- (d) That they can make either verbal or written submissions to the Tribunal;
- (e) That they may arrange for witnesses to attend the Tribunal in support of their position (statutory declarations of witnesses not available or from character witnesses may also be provided to the Tribunal);
- (f) An outline of any possible penalties that may be imposed if the complaint is found to be true; and
- (g) That legal representation will not be allowed. [If the respondent is a minor, they should have a parent or guardian present.]

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A copy of any information / documents that have been given to the Tribunal (e.g. investigation report findings) will also be provided to the respondent. The respondent(s) will be allowed to participate in all RSL NSW activities and events, pending the decision of the Tribunal, including any available appeal process, unless the CEO or DRM believes it is necessary to exclude the respondent(s) from all or some RSL NSW activities and events, after considering the nature of the complaint.

5.7 The Tribunal Registrar will notify the complainant in writing that a tribunal hearing will take place. The notice will outline:

- (a) That the person has a right to appear at the tribunal hearing to support their complaint;
- (b) Details of the complaint, including any relevant rules or regulations the respondent is accused of breaching
- (c) The date, time and venue of the tribunal hearing;
- (d) That they can make either verbal or written submissions to the Tribunal;
- (e) That they may arrange for witnesses to attend the Tribunal in support of their position (or provide statutory declarations from witnesses unable to attend); and
- (f) That legal representation will not be allowed. [If complainant is a minor, they should have a parent or guardian present.]

A copy of any information / documents that have been given to the Tribunal (e.g. investigation report findings) will also be provided to the complainant.

5.8 If the complainant believes the details of the complaint are incorrect or insufficient they should inform Tribunal Registrar as soon as possible so that the respondent and the Tribunal Panel members can be properly informed of the complaint.

5.9 It is preferable that the Tribunal include at least one person with knowledge or experience of the relevant laws/rules (e.g. Discrimination).

Tribunal Hearing Procedure

5.10 The following people will be allowed to attend the Tribunal Hearing:

- (a) The Tribunal members;
- (b) The respondent(s);

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- (c) The complainant;
- (d) Any witnesses called by the respondent;
- (e) Any witnesses called by the complainant;
- (f) Any parent / guardian or support person required to support the respondent or the complainant.

5.11 If the respondent(s) is not present at the set hearing time and the Tribunal Chairperson considers that no valid reason has been presented for their absence, the Tribunal Hearing will continue subject to the Tribunal Chairperson being satisfied that all Tribunal notification requirements have been met.

5.12 If the Tribunal Chairperson considers that a valid reason for the non-attendance of the respondent(s) has been presented or the Tribunal Chairperson does not believe the Tribunal notification requirements have been met, then the Tribunal will be rescheduled to a later date.

5.13 The Tribunal Chairperson will inform the Tribunal Registrar of the need to reschedule and the Tribunal Registrar will organise for the Tribunal to be reconvened.

5.14 The Tribunal Chairperson will read out the complaint, ask the respondent(s) if they understand the complaint and if they agree or disagree with the complaint.

5.15 If the respondent agrees with the complaint, he or she will be asked to provide any evidence or witnesses that should be considered by the Tribunal Panel when determining any disciplinary measures (penalty).

5.16 If the respondent disagrees with the complaint, the complainant will be asked to describe the circumstances that lead to the complaint being made.

- (a) Reference may be made to brief notes.
- (b) The complainant may call witnesses.
- (c) The respondent(s) may question the complainant and witnesses.

5.17 The respondent(s) will then be asked to respond to the complaint.

- (a) Reference may be made to brief notes.
- (b) The respondent may call witnesses.
- (c) The complainant may ask questions of the respondent and witnesses.

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5.18 Both the complainant and respondent may be present when evidence is presented to the Tribunal. Witnesses may be asked to wait outside the hearing until required.

5.19 The Tribunal may:

- (a) consider any evidence, in any form, that it deems relevant.
- (b) question any person giving evidence.
- (c) limit the number of witnesses presented to those who provide any new evidence.
- (d) Require the attendance of any witness it deems relevant;
- (e) Act in an inquisitorial manner in order to establish the truth of the issue/case before it.

5.20 Video evidence, if available, may be presented. The arrangements must be made entirely by the person/s wishing to offer this type of evidence.

5.21 If the Tribunal considers that at any time during the Tribunal Hearing that there is any unreasonable or intimidatory behaviour from anyone, the Chairperson may stop further involvement of the person in the hearing.

5.22 After all of the evidence has been presented the Tribunal will make its decision in private. The Tribunal must decide whether the complaint has been substantiated on the balance of probabilities (i.e. more probable than not). As the seriousness of the allegation increases, so too must the level of satisfaction of the Tribunal that the complaint has been substantiated. The respondent will be given an opportunity to address the Tribunal on disciplinary measures which might be imposed. Disciplinary measures imposed must be reasonable in the circumstances.

5.23 All Tribunal decisions will be by majority vote.

5.24 The Tribunal Chairperson will announce the decision in the presence of all those involved in the hearing and will declare the hearing closed or may advise those present that the decision is reserved and will be handed down in written form.

5.25 Within 48 hours, the Tribunal Chairperson will:

- (a) Forward to the CEO a copy of the Tribunal decision including any disciplinary measures imposed.

- (b) Forward a letter to the respondent(s) reconfirming the Tribunal decision and any disciplinary measures imposed. The letter should also outline, if allowed, the process and grounds for an appeal. Where the matter is of unusual complexity or importance, the Tribunal Chairperson may inform the parties in writing within 48 hours that the decision will be delayed for a further 48 hours.

5.26 The Tribunal does not need to provide written reasons for its decision.

Appeals Procedure

5.27 A complainant or a respondent(s) who is not satisfied with the decision of a Complaints Manager, the outcome of mediation or a Tribunal decision can lodge one appeal to the CEO on one or more of the following bases:

- (a) That a denial of natural justice has occurred; or
- (b) That the disciplinary measure(s) imposed is unjust and/or unreasonable.
- (c) That the decision was not supported by the information/evidence provided to the Complaints Manager/Mediator/Tribunal;

5.28 A person wanting to appeal in accordance with 5.27 must lodge a letter setting out the basis for their appeal with the CEO within 28 days of the relevant decision. An appeal fee of \$400 shall be included with the letter of intention to appeal.

5.29 If the letter of appeal is not received by the CEO within the time period the right of appeal lapses.

5.30 The letter of appeal and copy of tribunal decision report will be forwarded to the Tribunal to review and decide whether there are sufficient grounds for the appeal to proceed. The Tribunal may invite any witnesses to the meeting it believes are required to make an informed decision.

5.31 If the appellant has not shown sufficient grounds for appeal in accordance with paragraph 5.27, then the appeal will be rejected. The appellant will be notified with reasons and the appeal fee will be forfeited.

5.32 If the appeal is accepted, an Appeal Tribunal with a new panel will be convened to rehear the complaint or in the case of an appeal against the State Branch Tribunal it will be referred the RSL National Tribunal.

5.33 The Tribunal Procedure shall be followed for the appeal.

5.34 The decision of an Appeal Tribunal will be final.

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CHAPTER 6

REPORTING DOCUMENTS

6.1 In this Chapter are examples of record keeping with regards complaints.

ANNEX:

- A Confidential record of informal complaint
- B Confidential record of formal complaint
- C Confidential record of child abuse allegation

What information provided	
What they are going to do now	

This record and any notes must be kept in a confidential place – do not enter it on a computer system. If the issue becomes a formal complaint, this record is to be sent to RSL NSW CEO and or Dispute Resolution Manager.

**ANNEX B TO
CHAPTER 6
CONFIDENTIAL RECORD OF FORMAL COMPLAINT**

Complainant's Name	<input type="checkbox"/> Over 18 <input type="checkbox"/> Under 18	Date Formal Complaint Received: / /
Complainant's contact details	Phone: Email:	
Complainant's Role/status	<input type="checkbox"/> Administrator (volunteer) <input type="checkbox"/> Parent <input type="checkbox"/> Athlete/player <input type="checkbox"/> Spectator <input type="checkbox"/> Coach/Assistant Coach <input type="checkbox"/> Support Personnel <input type="checkbox"/> Employee (paid) <input type="checkbox"/> Other <input type="checkbox"/> Official	
Name of person complained about (respondent)	<input type="checkbox"/> Over 18 <input type="checkbox"/> Under 18	
Respondent's Role/status	<input type="checkbox"/> Administrator (volunteer) <input type="checkbox"/> Parent <input type="checkbox"/> Athlete/player <input type="checkbox"/> Spectator <input type="checkbox"/> Coach/Assistant Coach <input type="checkbox"/> Support Personnel <input type="checkbox"/> Employee (paid) <input type="checkbox"/> Other <input type="checkbox"/> Official	
Location/event of alleged issue		
Description of alleged issue		

<p>Nature of complaint (category/basis/grounds)</p> <p>Can tick more than one box</p>	<p> <input type="checkbox"/> Harassment or <input type="checkbox"/> Discrimination <input type="checkbox"/> Sexual/sexist <input type="checkbox"/> Selection dispute <input type="checkbox"/> Coaching methods <input type="checkbox"/> Sexuality <input type="checkbox"/> Personality clash <input type="checkbox"/> Verbal abuse <input type="checkbox"/> Race <input type="checkbox"/> Bullying <input type="checkbox"/> Physical abuse <input type="checkbox"/> Religion <input type="checkbox"/> Disability <input type="checkbox"/> Victimisation <input type="checkbox"/> Pregnancy <input type="checkbox"/> Child Abuse <input type="checkbox"/> Unfair decision <input type="checkbox"/> Other </p>
<p>Methods (if any) of attempted informal resolution</p>	
<p>Formal resolution procedures followed (outline)</p>	
<p>If investigated: Finding -</p>	
<p>If went to hearing tribunal: Decision - Action recommended -</p>	
<p>If mediated: Date of mediation - Were both parties present - Terms of Agreement - Any other action taken -</p>	
<p>If went to appeals tribunal: Decision Action recommended</p>	

Resolution	<input type="checkbox"/> Less than 3 months to resolve <input type="checkbox"/> Between 3 – 8 months to resolve <input type="checkbox"/> More than 8 months to resolve
Completed by	Name: Position: Signature: / /
Signed by:	Complainant: Respondent:

This record and any notes must be kept in a confidential place. If the complaint is of a serious nature, or is escalated to and/or dealt with at the national level, the original must be forwarded to the national body and a copy kept at the club/state/district level (whatever level the complaint was made).

**ANNEX C TO
CHAPTER 6**

CONFIDENTIAL RECORD OF CHILD ABUSE ALLEGATION

Before completing, ensure the procedures outlined in attachment C4 have been followed and advice has been sought from the relevant government agency and/or police.

Complainant's Name (if other than the child)		Date Formal Complaint Received: / /
Role/status in sport		
Child's name		Age:
Child's address		
Person's reason for suspecting abuse (e.g. observation, injury, disclosure)		
Name of person complained about		
Role/status in sport	<input type="checkbox"/> Administrator (volunteer) <input type="checkbox"/> Parent <input type="checkbox"/> Athlete/player <input type="checkbox"/> Spectator <input type="checkbox"/> Coach/Assistant Coach <input type="checkbox"/> Support Personnel <input type="checkbox"/> Employee (paid) <input type="checkbox"/> Other <input type="checkbox"/> Official	
Witnesses (if more than 3 witnesses, attach details to this form)	Name (1): Contact details: Name (2): Contact details: Name (3): Contact details:	
Interim action (if any) taken (to ensure child's safety and/or to support needs of person complained about)		

Police contacted	Who: When: Advice provided:
Government agency contacted	Who: When: Advice provided:
CEO contacted	Who: When:
Police and/or government agency investigation	Finding:
Internal investigation (if any)	Finding:
Action taken	
Completed by	Name: Position: Signature: / /
Signed by	Complainant (if not a child)

This record and any notes must be kept in a confidential place and provided to the relevant authorities (police and government) should they require them.

CHAPTER 7

OTHER USEFUL INFORMATION

Introduction

7.1 This Chapter is designed to provide useful information and contacts for sub-Branch and Subsidiary Trustees, Executives and Committee. It contains contact details for all of the publications and organisations mentioned in this Regulation and other useful information.

Websites

7.2 Websites that relate to organisations or publications mentioned in this Regulation and of common interest are:

- (a) **RSL National** – www.rsl.org.au
- (b) **RSL NSW** - <http://www.rslnsw.org.au/>; contains information for sub-Branches, including an electronic copy of the Constitution and By-Laws, sub-Branch Governance Regulation and Protocol and Procedures Regulation.
- (c) **Connecting NSW (Government Directory)**– <http://www.nsw.gov.au/index.asp>;
- (d) **NSW Trustee Act 1925**
http://www.austlii.edu.au/au/legis/nsw/consol_act/ta1925122/;
- (e) **NSW Office of Fair Trading** – <http://www.fairtrading.nsw.gov.au/corporate/legislation/fairtradinglegislation.html>;
- (f) **NSW Office of Liquor, Gaming and Racing** – http://www.olgr.nsw.gov.au/olgr_default.asp;
- (g) **NSW Commission for Children and Young People** – <http://www.kids.nsw.gov.au/>;
- (h) **Common Law** - <http://www.commonlii.org/resources/1.html>;
- (i) **Australian Government Online Directory**- <http://directory.gov.au>
- (j) **The Privacy Act 1988** - <http://www.privacy.gov.au/act/privacyact/>;
- (k) **Your Guide** - <http://www.yourguide.com.au/yourguide.asp>
- (l) **Our Community** - <http://www.ourcommunity.com.au/>; and
- (m) **Volunteering NSW** - <http://www.volunteering.com.au/>