

DARWIN SAILING CLUB MEMBER PROTECTION POLICY

**Version 2 – DRAFT
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Preface

Darwin Sailing Club is committed to the health, safety and general well-being of all the participants involved with the club. Equally Darwin Sailing Club are committed to the goals of equity and diversity. We aim to provide an environment for the sailing and boating community of Darwin that fosters fairness, equity, and respect for social and cultural diversity, and that is free from unlawful discrimination, harassment and vilification.

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

Darwin Sailing Club is committed to creating a safe, fair and inclusive sporting environment. Our Organisation:

- seeks to prevent all forms of harassment, discrimination and abuse and to promote positive behaviour and values
- will not tolerate inappropriate or unlawful behaviour in our organisation
- policy sets out codes of behaviour with which everyone associated with the organisation is expected to abide
- advises disciplinary action will be taken against individuals if there is a breach of the policy.

John Melenewycz
General Manager

Darwin Sailing Club
March 2020

PART A: MEMBER PROTECTION POLICY

1 INTRODUCTION

In 1963 the Darwin Sailing Club (DSC) was formed by a group of dedicated volunteer sailors. From these humble beginnings, the DSC has grown and grown to become one of the busiest, 7 days per week community sporting and hospitality operations in the Northern Territory.

Today the DSC has more than 1000 members and welcomes more than 50,000 visitors each year through its doors.

Over time the Club's growth has demanded the Club employ skilled staff to assist in looking after day to day operations. While a number of committed and passionate volunteers continue to oversee the management of the operation, today most of the Club's services are delivered by paid staff.

In a practical sense, volunteer Board, Committee Members and Officers work together with the Club's paid staff to allow members, their guests and visitors to enjoy the activity of Sailing and the Club's famous hospitality.

At its heart the Darwin Sailing Club remains an apolitical, community based and not for profit organisation. That said, there are uncompromising commercial and legal obligations the Club must meet to operate safely and within the law.

Darwin Sailing Club aims to develop the sport at all levels through effective governance, recruitment and servicing of members, management of training, promotion of sailing, raising community awareness, supporting the development of sailors, boating participants, coaches and officials

Darwin Sailing Club's values are to:

- Be professional in approach and management.
- Strive for excellence and innovation.
- Make decisions based on the best interests of the Federation.
- Strive for open, effective and timely communication.
- Value commercial partners.
- Respond to the stakeholders needs.
- Work as a team.

2 PURPOSE OF THIS POLICY

This Member Protection Policy ("policy") aims to assist Darwin Sailing Club to uphold its core values and create a safe, fair and inclusive environment for everyone associated with our Club. It sets out our commitment to ensure that every person bound by the policy is treated with respect and dignity and protected from discrimination, harassment and abuse. It also seeks to ensure that everyone involved in our Club is aware of their key legal and ethical rights and responsibilities, as well as the standards of behaviour expected of them.

The attachments to this policy describe the practical steps we will take to eliminate discrimination, harassment, child abuse and other forms of inappropriate behaviour from our Club. As part of this commitment, the policy allows Darwin Sailing Club to take disciplinary action against any person or organisation bound by this policy if they breach the policy.

This policy has been endorsed by the Darwin Sailing Club Board and has been **incorporated into the Darwin Sailing Club Limited Constitution**. The policy starts in March 2020 and will operate until replaced.

3 WHO IS BOUND BY THIS POLICY

This policy should apply to as many persons as possible who are involved with the activities of Darwin Sailing Club whether they are in a paid or unpaid/voluntary capacity:

- a) persons appointed or elected to boards, committees and sub-committees
- b) employees of Darwin Sailing Club
- c) support personnel, sport trainers and others appointed or selected to national and state level teams and squads
- d) coaches and assistant coaches
- e) athletes, participants
- f) accredited instructors and assistant instructors
- g) race officials and other officials involved in the regulation of the sport
- h) members, including life members of Darwin Sailing Club
- i) athletes, coaches, officials and other personnel participating in events and activities, including camps and training sessions, held or sanctioned by Darwin Sailing Club
- j) any other person to whom the policy may apply including spectators, parents/guardians and sponsors, who or which agrees in writing (whether on a ticket, entry form or otherwise) to be bound by this policy.

This policy will continue to apply to a person even after he or she has stopped their association or employment with Darwin Sailing Club, if disciplinary action against that person has begun.

4 ORGANISATIONAL RESPONSIBILITIES

Darwin Sailing Club must:

- a) adopt, implement and comply with this policy
- b) ensure that this policy is enforceable
- c) publish, distribute and promote this policy and the consequences of any breaches of the policy
- d) promote and model appropriate standards of behaviour at all times
- e) deal with any complaints made under this policy in an appropriate manner
- f) deal with any breaches of this policy in an appropriate manner
- g) recognise and enforce any penalty imposed under this policy
- h) ensure that a copy of this policy is available or accessible to all people and organisations to whom this policy applies
- i) use appropriately trained people to receive and manage complaints and allegations of inappropriate behaviour [e.g. Membership Officers]

- j) monitor and review this policy at least annually.

5 INDIVIDUAL RESPONSIBILITIES

Individuals bound by this policy must:

- a) make themselves aware of the contents of this policy
- b) comply with all relevant provisions of the policy, including any codes of conduct and the steps for making a complaint or reporting possible child abuse set out in this policy
- c) consent to the screening requirements set out in this policy by the Northern Territory Working with Children Check, if their role involves regular unsupervised contact with a child or young person under the age of 18
- d) place the safety and welfare of children above other considerations
- e) be accountable for their behaviour
- f) comply with any decisions and/or disciplinary measures imposed under this policy.

6 POSITION STATEMENTS

6.1 ANTI-DISCRIMINATION AND HARASSMENT

Darwin Sailing Club are committed to providing an environment in which people are treated fairly and equitably and that is, as far as practicable, free from all forms of discrimination and harassment.

We recognise that people may not be able to enjoy themselves or perform at their best if they are treated unfairly, discriminated against or harassed.

6.1.1 DISCRIMINATION

Unlawful discrimination involves the less favourable treatment of a person based on one or more of the personal characteristics protected by state or federal anti-discrimination laws.

The personal characteristics protected by anti-discrimination laws include attributes such as race, age, disability, and gender. The full list of protected personal characteristics is in the “Definitions” set out in the Dictionary of Terms.

Discrimination can be either direct or indirect.

- **Direct** discrimination occurs if a person treats, or proposes to treat, a person with a protected personal characteristic unfavorably because of that personal characteristic.
- **Indirect** discrimination occurs if a person imposes, or proposes to impose, a requirement, condition or practice that will disadvantage a person with a protected personal characteristic and that requirement, condition or practice is not reasonable.

For the purposes of determining discrimination, the offender’s awareness and motive are irrelevant.

6.1.2 HARASSMENT

Harassment is any unwelcome conduct, verbal or physical, that intimidates, offends or humiliates another person and which happens because a person has a certain personal characteristic protected by State or Federal anti-discrimination legislation.

The offensive behaviour does not have to take place several times, a single incident can constitute harassment.

Sexual harassment is one type of harassment. Sexual harassment is unwelcome conduct, remarks or innuendo of a sexual nature. It covers a wide range of behaviours and can be verbal, written, visual or physical. Sexual harassment is not limited to members of the opposite sex.

6.1.3 PROHIBITION AGAINST DISCRIMINATION AND HARASSMENT

We prohibit all forms of harassment and discrimination based on the personal characteristics listed in the “Definitions” set out in the Dictionary of Terms [see clause 10].

Any person who believes they are being, or have been, harassed or discriminated against by another person or organisation bound by this policy is encouraged to raise their concerns with us. A person may make an internal complaint, and in some circumstances, they may also be able to make a complaint to an external organisation. (Refer to the attachments in Part D of this policy.)

6.2 PREGNANCY

Darwin Sailing Club are committed to treating pregnant women fairly and to removing any unreasonable barriers to their full participation in our club. We will not tolerate any discrimination or harassment against pregnant women.

Darwin Sailing Club will take reasonable care to ensure the continuing safety, health and wellbeing of pregnant women. We will advise pregnant women that there may be risks involved with their continuing participation in sport, and we will encourage them to obtain medical advice about those risks. Pregnant women should be aware that their own health and wellbeing, and that of their unborn child, is of utmost importance in their decision-making about the extent they choose to participate in our club.

We encourage all pregnant women to talk with their medical advisers, make themselves aware of the facts about pregnancy in sport and ensure that they make informed decisions about their participation in our sport. Pregnant women should make these decisions themselves, in consultation with their medical advisers and in discussion with Darwin Sailing Club.

We will only require pregnant women to sign a disclaimer in relation to their participation in our sport whilst they are pregnant if all other participants are required to sign one in similar circumstances. We will not require women to undertake a pregnancy test.

If a pregnant woman believes she is being, or has been, harassed or discriminated against by another person or organisation bound by this Policy, she may make a complaint. (Refer to the attachments in Part D of this policy.)

6.3 GENDER IDENTITY

Gender identity means the gender-related identity, appearance or mannerisms or other gender-related characteristics of a person. This includes the way people express or present their gender and recognises that a person’s gender identity may be an identity other than male or female. Some terms used to describe a person’s gender identity include trans, transgender and gender diverse.

6.3.1 GENDER IDENTITY DISCRIMINATION AND HARASSMENT

Federal, state and territory anti-discrimination laws provide protection from discrimination against people based on their gender identity. (See definition in Dictionary of terms).

Darwin Sailing Club are committed to providing a safe, fair and inclusive sporting environment all where people can contribute and participate. We will not tolerate any unlawful discrimination or harassment of a person because of their gender identity.

All persons, regardless of gender identity, are always entitled to be treated fairly and with dignity and respect . We will not tolerate any unlawful discrimination or harassment of a person because of their gender identity. This includes discrimination or harassment of a person who is transgender or transsexual, who is assumed to be transgender or transsexual or has an association with someone who has or is assumed to be transgender or transsexual. (Refer to the attachments in Part D of this policy.)

We expect all people bound by this policy to act with sensitivity when a person is undergoing gender transition/affirmation.

If any person believes that they are being, or have been, harassed or discriminated against by another person or organisation bound by this policy because of their gender identity, they may make a complaint.

6.3.2 PARTICPATION IN SPORT

Darwin Sailing Club recognise that excluding people from participating in sporting events and activities because of their gender identity may have significant implications for their health, wellbeing and involvement in community life. We are committed to supporting participation in our sport based on the gender with which a person identifies.

If issues of performance advantage arise, we will consider whether the established discrimination exceptions for participation in sport are relevant in the circumstances. Discrimination is unlawful unless an exception applies.

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.

6.3.3 INTERSEX STATUS

Federal anti-discrimination law, and some state and territory anti-discrimination laws, provide protection from discrimination against a person based on their intersex status. (See Dictionary of terms).

Darwin Sailing Club are committed to providing a safe, fair and inclusive sporting environment where all people can contribute and participate. We will not tolerate any unlawful discrimination or harassment of a person because of their intersex status.

6.4 RESPONSIBLE SERVICE AND COMSUMPTION OF ALCOHOL

Darwin Sailing Club are committed to conducting sporting and social events in a manner that promotes the responsible service and consumption of alcohol.

In general, our policy is that:

- alcohol should not be available or consumed at sporting events involving children and young people under the age of 18
- alcohol-free social events be provided for young people and families
- food and low-alcohol and non-alcoholic drinks be available at events we hold or endorse where alcohol is

served

- a staff member is present at events we hold or endorse where alcohol is served to ensure appropriate practices in respect of the consumption of alcohol are followed
- safe transport options be promoted as part of any event we hold or endorse where alcohol is served.

6.5 SMOKE FREE ENVIRONMENT

Darwin Sailing Club are committed to providing a safe and healthy environment at all sporting and social events that we hold or endorse.

In general, our policy is that:

- no smoking shall occur at or near sporting events involving children and young people under the age of 18. This policy shall apply to coaches, players, trainers, officials and volunteers;
- social events shall be smoke-free, with smoking permitted at designated outdoor smoking areas; and
- coaches, officials, trainers, volunteers and players will refrain from smoking while they are involved in an official capacity in our sport, both on and off the water.

6.6 BULLYING

Darwin Sailing Club are committed to providing an environment that is free from bullying. We understand that bullying has the potential to result in significant negative consequences for an individual's health and wellbeing, and we regard bullying in all forms as unacceptable in our sport.

Bullying is characterised by repeated, unreasonable behaviour directed at a person, or group of persons, that creates a risk to health and safety. Bullying behaviour is that which a reasonable person in the circumstances would expect to victimise, humiliate, undermine, threaten, degrade, offend or intimidate a person. Bullying behaviour can include actions of an individual or a group.

Whilst generally characterised by repeated behaviours, one-off instances can amount to bullying.

The following types of behaviour, where repeated or occurring as part of a pattern of behaviour, would be considered bullying:

- a) verbal abuse including shouting, swearing, teasing, making belittling remarks or persistent unjustified criticism;
- b) excluding or isolating a group or person;
- c) spreading malicious rumours; or
- d) psychological harassment such as intimidation.

Bullying includes cyber-bullying which occurs through the use of technology. New technologies and communication tools, such as smart phones and social networking websites, have greatly increased the potential for people to be bullied through unwanted and inappropriate comments. Darwin Sailing Club will not tolerate abusive, discriminatory, intimidating or offensive statements being made online. Frustration at an official, crewmate, coach or sporting body should never be communicated on social networking websites. These issues should instead be addressed – in a written or verbal statement or a complaint – **to the relevant controlling club, league or peak sporting body.**

If any person believes they are being, or have been, bullied by another person or organisation bound by this policy, he or she may make a complaint. (Refer to the attachments in Part D of this policy.)

6.7 SOCIAL NETWORKING

Darwin Sailing Club acknowledge the enormous value of social networking to promote our sport and celebrate the achievements and success of the people involved in our club.

Social networking refers to any interactive website or technology that enables people to communicate and/or share content via the internet. This includes social networking websites such as Facebook and Twitter.

We expect all people bound by this policy to conduct themselves appropriately when using social networking sites to share information related to our sport.

In particular, social media activity including, but not limited to, postings, blogs, status updates, and tweets:

- must not contain material which is, or has the potential to be, offensive, aggressive, defamatory, threatening, discriminatory, obscene, profane, harassing, embarrassing, intimidating, sexually explicit, bullying, hateful, racist, sexist or otherwise inappropriate;
- must not contain material which is inaccurate, misleading or fraudulent;
- must not contain material which is in breach of laws, court orders, undertakings or contracts;
- should respect and maintain the privacy of others; and
- should promote the sport in a positive way.

7 COMPLAINTS PROCEDURE

7.1 HANDLING COMPLAINTS

Darwin Sailing Club aim to provide a simple, confidential and trustworthy procedure for resolving complaints based on the principles of procedural fairness.

Any person (a complainant) may report a complaint about a person, people or organisation bound by this policy (respondent) if they feel they have been discriminated against, harassed, bullied or there has been any other breach of this policy.

In the first instance, complaints should be reported to a Membership Officer.

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

- Club or class level or involves people operating at the club or class level, then the complaint should be reported to and handled by the relevant club in the first instance.
- Where a complaint occurs and isn't able to be handled by a club, is considered a serious case, the matter occurred at a national event, or for any other reason, then the matter is to be referred to Darwin Sailing Club.

A complaint may be handled informally or formally. The complainant may indicate his or her preferred option and the Membership Officer should consider whether that is an appropriate way to handle the particular complaint. For example, the law may require that the complaint/allegation be reported to an appropriate authority.

All complaints will be dealt with promptly, seriously, sensitively and confidentially. Our procedures for handling and resolving complaints are outlined in Attachment D1.

Individuals and organisations may also seek to have their complaint handled by an external agency under anti-discrimination, child protection, criminal or other relevant legislation.

7.2 IMPROPER COMPLAINTS AND VICTIMISATION

Darwin Sailing Club aim to ensure that our complaints procedure has integrity and is free of unfair repercussions or victimisation against any person making a complaint.

We will take all necessary steps to make sure that people involved in a complaint are not victimised. Disciplinary measures may be undertaken in respect of a person who harasses or victimises another person for making a complaint or supporting another person's complaint.

If at any point in the complaint handling process the **Membership Officer** considers that a complainant has knowingly made an untrue complaint, or the complaint is malicious or inappropriately intended to cause distress to the respondent, the matter may be referred in writing to the Darwin Sailing Club Board for review and appropriate action, including possible disciplinary action against the complainant.

7.3 MEDIATION

Darwin Sailing Club aim to resolve complaints quickly and fairly. Complaints may be resolved by agreement between the people involved with no need for disciplinary action.

Mediation is a confidential process that allows those involved in a complaint to discuss the issues or incident in question and come up with mutually agreed solutions. It 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 **Membership Officer** will, in consultation with the complainant, arrange for an independent mediator where possible. We will not allow lawyers to participate in the mediation process.

More information on the mediation process is outlined in **Attachment D2**.

7.4 TRIBUNALS

In accordance with Darwin Sailing Club rules a Tribunal may be convened to hear a proceeding:

- referred to it by the Darwin Sailing Club Board;
- for an alleged breach of this policy.

Our Tribunal procedure is outlined in **Attachment D4**.

A respondent may lodge an appeal to the Appeal Tribunal in respect of a Tribunal decision. The decision of the Appeal Tribunal is final and binding on the people involved. **Our appeals process is outlined in Attachment D4.**

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

8 WHAT IS A BREACH OF THIS POLICY?

It is a breach of this policy for any person or organisation bound by this policy to do anything contrary to this policy, including but not limited to:

- a) breaching the Codes of Behaviour (**see Part B of this policy**);

- b)** bringing the sport and/or Darwin Sailing Club into disrepute, or acting in a manner likely to bring the sport and/or Darwin Sailing Club into disrepute;
- c)** failing to follow Darwin Sailing Club policies (including this policy) and our procedures for the protection, safety and well-being of children
- d)** discriminating against, harassing or bullying (including cyber-bullying) any person
- e)** victimising another person for making or supporting a complaint
- f)** engaging in an inappropriate intimate relationship with a person that he or she supervises, or has influence, authority or power over
- g)** verbally or physically assaulting another person, intimidating another person or creating a hostile environment within the sport
- h)** disclosing to any unauthorised person or organisation any Darwin Sailing Club information that is of a private, confidential or privileged nature
- i)** making a complaint that they know 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
- k)** failing to comply with a direction given to the individual or organisation as part of a disciplinary process.

9 DISCIPLINARY MEASURES

Darwin Sailing Club may impose disciplinary measures on an individual or organisation for a breach of this policy.

Any disciplinary measure imposed will be:

- a)** fair and reasonable
- b)** applied consistent with any contractual and employment rules and requirements
- c)** be based on the evidence and information presented and the seriousness of the breach
- d)** be determined in accordance with our constituent documents, by-laws, this policy and/or the rules of the sport.

9.1 INDIVIDUAL

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

- a)** a direction that the individual makes 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, scholarships, placings, records, achievements bestowed in any tournaments, activities or events held or sanctioned by Darwin Sailing Club
- e)** a demotion or transfer of the individual to another location, role or activity

- f) a suspension of the individual's membership or participation or engagement in a role or activity
- g) termination of the individual's membership, appointment or engagement
- h) a recommendation that the Darwin Sailing Club 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
- k) any other form of discipline that Darwin Sailing Club considers appropriate

9.2 ORGANISATION

If a finding is made that Darwin Sailing Club or Class Associations has breached this Member Protection Policy, one or more of the following forms of discipline may be imposed by the Australian Sailing Board.

- 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 Australian Sailing or the relevant State Association cease from a specified date
- e) a direction that Australian Sailing and/or its State Associations cease to sanction events held by or under the auspices of Darwin Sailing Club
- f) a recommendation to the Darwin Sailing Club Board that its membership with Australian Sailing be suspended or terminated in accordance with the relevant constitution or rules
- g) any other form of discipline that Australian Sailing considers reasonable and appropriate

9.3 FACTORS TO CONSIDER

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

- a) the nature and seriousness of the breach
- b) if the person knew, or should have known, that the behaviour was a breach of the policy
- c) the person's 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 any relevant prior warnings or disciplinary action
- f) the ability to enforce disciplinary measures if the person is a parent or spectator (even if they are bound by the policy)
- g) any other mitigating circumstances.

10 DICTIONARY OF TERMS

This Dictionary sets out the meaning of words used in this policy and its attachments, without limiting the ordinary and natural meaning of the words.

Abuse is the violation of an individual's human or civil rights through the act or actions of another person or persons. Types of abuse include physical abuse, psychological or emotional abuse, sexual abuse, constraints and restrictive practices, financial abuse, legal or civil abuse and systemic abuse.

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

Affiliated class means those classes which are directly affiliated as a class to a State Association. National class associations can also affiliate directly to Darwin Sailing Club.

Child means a person who is under the age of 18.

Child abuse involves conduct which puts a child at risk of harm and may include:

- **physical abuse**, which occurs when a child has suffered, or is at risk of suffering, non-accidental physical trauma or injury. This may include, but is not limited to, hitting, shaking or other physical harm; giving a child alcohol or drugs; or training that exceeds the child's development or maturity.
- **sexual abuse**, which occurs when an adult, other child, or adolescent uses their power or authority to involve a child in a sexual activity or 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**, which occurs when a child's social, emotional, cognitive or intellectual development is impaired or threatened. Emotional abuse can include, but is not limited to, emotional deprivation due to persistent rejection or criticism, hostility, teasing/bullying, humiliation, taunting, sarcasm, yelling, name-calling or placing unrealistic expectations on a child.
- **neglect**, which occurs when a child's basic necessities of life are not met and their health and development are affected. Basic needs include food, water, shelter, adequate clothing, personal hygiene, timely provision of medical treatment and adequate supervision.

Complaint means a complaint made under clause [7] of this policy

- **Complainant** means the person making a complaint.
- **Complaint handler/manager** means the person/s appointed under this policy to investigate a complaint.

Discrimination occurs when someone is treated (or is proposed to be treated) unfairly or less favourably than another person in the same or similar circumstances because of one of the personal characteristics covered by anti-discrimination laws. This is known as direct discrimination. Indirect discrimination occurs when there is (or is proposed) an unreasonable requirement, condition or practice that seems to treat everyone equally, but which has or is likely to have the effect of disadvantaging persons with a personal characteristic covered by anti-discrimination laws.

In Australia, it is against the law to discriminate against someone because of:

a) age

- b) sex or gender
- c) gender identity
- d) intersex status
- e) race, colour, descent, national or ethnic origin, nationality, ethno-religious origin, immigration
- f) disability, mental and physical impairment
- g) family/carer responsibilities, status as a parent or carer
- h) marital status
- i) pregnancy, potential pregnancy, breastfeeding
- j) sexual orientation and gender identity
- k) physical features
- l) irrelevant medical record
- m) irrelevant criminal record, spent convictions
- n) political beliefs or activities
- o) religion, religious beliefs or activities
- p) national extraction or social origin
- q) lawful sexual activity
- r) profession, trade, occupation or calling
- s) member of association or organisation of employees or employers, industrial activity, trade union activity
- t) defence service
- u) personal association with someone who has, or is assumed to have, any of the above characteristics

Examples of discrimination are available on the Play by the Rules website: www.playbytherules.net.au/legal-stuff/discrimination

Some exceptions to state, territory and federal anti-discrimination law apply, including exceptions for sporting activities, such as:

- holding a competitive sporting activity for a specific age or age group (e.g. only those who are under the age of 15 years);
- excluding people on the basis of their 'excluding people on the basis of their sex and/or gender identity status from participation in a competitive sporting activity where the strength, stamina or physique of competitors is relevant to the specific activity (note that this does not apply to activity by children who are under the age of 12 years); and
- 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.

Harassment is any type of unwelcome behaviour which has the effect of offending, humiliating or intimidating the person harassed. Unlawful harassment can be based on any of the personal characteristics covered by anti-discrimination law, such as a person's race, sex, pregnancy, marital status or sexual orientation (see the list under "Discrimination").

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 people on other grounds such as homosexuality, gender identity, HIV/AIDS, religion and disability (see also “Vilification”).

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

Member means a person affiliated to Darwin Sailing Club through a State Association by virtue of their membership of an affiliated club, in accordance with Darwin Sailing Club’s ‘Cardholder’ terms and conditions.

- **Membership Officer** means a person appointed by us to be the first point of contact for a person reporting an issue or a complaint under, or a breach of, this policy.
- **Procedural fairness** requires that:
 - the respondent knows the full details of what is being said against him or her and they have the opportunity to respond;
 - no person may judge their own case; and
 - the decision-maker(s) must be unbiased, fair and just.

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

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

Respondent means the person whose behaviour is the subject of the complaint.

Role-specific codes of conduct (or behaviour) means standards of conduct required of people holding certain roles in our organisation (e.g. coaches, officials, umpires).

Sexual harassment means unwelcome behaviour of a sexual nature which could reasonably be expected to make a person feel humiliated, intimidated or offended. Sexual harassment can take many different forms and may include unwelcome physical contact, verbal comments, jokes, propositions, displays of pornographic or offensive material or other behaviour that creates a sexually hostile environment. Sexual harassment does not have to be intentional.

Sexual offence means a criminal offence involving sexual activity or acts of indecency. Because of differences under state and territory laws, this can include but is not limited to:

- rape
- indecent assault
- sexual assault
- assault with intent to commit sexual acts
- incest
- sexual penetration of child under the age of 16 years
- indecent act with child under the age of 16 years
- sexual relationship with child under the age of 16 years
- 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 years
- bestiality
- soliciting a child under the age of 16 years to take part in an act of sexual penetration, or an indecent act
- promoting or engaging in acts of child prostitution
- obtaining benefits from child prostitution
- possession of child pornography
- publishing child pornography and indecent articles.

Transgender ‘Transgender’ is an umbrella term that refers to a person whose gender identity is different to their physical sex as recorded at birth. Transitioning refers to the process where a transgender person commences living as a member of another sex. This is sometimes referred to as the person ‘affirming’ their gender because transitioning means they start living in what they identify as their true gender. For people who are transitioning/affirming their gender, having their identity fully recognised in all areas of life is a crucial part of the experience of living as their affirmed gender.

Sexual orientation: The term ‘sexual orientation’ refers to a person’s emotional or sexual attraction to another person, including, amongst others, the following identities: heterosexual, gay, lesbian, bisexual, pansexual, asexual or same-sex attracted.

Gender identity: The term ‘gender identity’ refers to a person’s deeply held internal and individual sense of gender.

Gender expression: The term ‘gender expression’ refers to the way in which a person externally expresses their gender or how they are perceived by others.

Intersex: The term ‘intersex’ refers to people who have genetic, hormonal or physical characteristics that are not exclusively ‘male’ or ‘female’. A person who is intersex may identify as male, female, intersex or as being of indeterminate sex.

Victimisation means treating someone unfairly or unfavourably, or threatening to do so, because that person has, or intends to, pursue their right to make any complaint, including a complaint under government legislation (e.g. anti-discrimination legislation) or under this policy, or for supporting another person to make complaint.

Vilification means behaviour that occurs in public which incites hatred towards, serious contempt for, or revulsion or severe ridicule of a person or group of people because that person or persons have a particular personal characteristic. Anti-discrimination laws in Australia make it unlawful to vilify a person or group of persons on the basis of race, religion, homosexuality, transgender status and HIV/AIDS status.

PART B: CODES OF BEHAVIOUR

Note: Codes of Behaviour are generally not binding on non-members such as parent/guardians and spectators unless they have signed the codes or other form/document agreeing to be bound by the codes and the member protection policy

We seek to provide a safe, fair and inclusive environment for everyone involved in our organisation and in our sport.

To achieve this, we require certain standards of behaviour by players/athletes, coaches, officials, administrators, parents/guardians (of child participants) and spectators.

Our codes of behaviour are underpinned by the following core values.

- To act within the rules and spirit of our sport.
- To display respect and courtesy towards everyone involved in our sport and prevent discrimination and harassment.
- To prioritise the safety and well-being of children and young people involved in our sport.
- To encourage and support opportunities for participation in all aspects of our sport.

ATTACHMENTS

Attachment B1: General Code of Conduct

Attachment B2: Administrator (volunteer) Code of Conduct

Attachment B3: Coach and Instructors Code of Conduct

Attachment B4: Sailing/Boating Participant Code of Conduct

Attachment B5: Officials Code of Conduct

Attachment B6: Parent/Guardian Code of Conduct

Attachment B7: Spectator Code of Conduct

ATTACHMENT B1: GENERAL CODE OF CONDUCT

Darwin Sailing Club endorse the following code of conduct for members, service providers and employees, particularly those responsible for activities involving members under the age of 18 years.

As an individual possessing a valid Darwin Sailing Club Membership ([see definition of Member](#)), a service provider or an employee you should meet the following standard of conduct:

- Respect the rights, dignity and worth of others.
- Be fair, considerate and honest in all dealing with others.
- Be professional in, and accept responsibility for, your actions.
- Make a commitment to providing quality service.
- Be aware of, and maintain an uncompromising adherence to, Darwin Sailing Club's standards, rules, regulations and policies.
- Operate within the rules of the sport including national and international guidelines that govern Darwin Sailing Club.
- Do not use your involvement with Darwin Sailing Club to promote your own beliefs, behaviours or practices where these are inconsistent with those of the Relevant Organisation.
- Demonstrate a high degree of individual responsibility especially when dealing with persons under 18 years of age, as your words and actions are an example.
- Avoid unaccompanied and unobserved activities with persons under 18 years of age, wherever possible.
- Refrain from any form of harassment of others.
- Refrain from any behaviour that may bring Darwin Sailing Club into disrepute.
- Provide a safe environment for the conduct of the activity.
- Show concern and caution towards others who may be sick or injured.
- Be a positive role model.
- Understand the repercussions if you breach, or are aware of any breaches of, the Member Protection Policy.

ATTACHMENT B2: ADMINISTRATOR (VOLUNTEER) CODE OF CONDUCT

Administrators/directors/officers/employees/contractors shall:

- Agree to abide by the Code of Conduct.
- Be fair, considerate and honest in all dealing with others.
- Be professional in their actions, language, presentation, manners and punctuality in order to reflect high standards.
- Maintain confidentiality in regard to sensitive and/or commercial information.
- Resolve conflicts fairly and promptly through established procedures.
- Maintain strict impartiality in matters relating to the Member Protection Policy.
- Maintain a safe environment for others.
- Show concern and caution towards others.
- Be a positive role model for others.

ATTACHMENT B3: COACH AND INSTRUCTORS CODE OF CONDUCT

Coaches and instructors educate participants in the fundamental techniques, skills and tactics of sailing. Accredited coaches and instructors are vital to quality sailing development.

Sailing coaches and instructors shall:

- Agree to abide by the code of conduct.
- Become accredited and keep that accreditation up to date.
- Encourage enjoyment of sailing, participation should be for pleasure, winning is only part of the fun.
- Cater for varying levels of ability so that all sailors have a 'fair go' in both practice and competition.
- Provide equal encouragement to males and females to participate, acquire skills and develop confidence.
- Make opportunities available for exceptionally talented sailors or boating participants to develop their full sailing and/or boating potential.
- Prepare and conduct sessions based on sound coaching principles.
- Set realistic standards and objectives for juniors.
- Provide safe sailing or boating conditions.
- Insist that the required protective clothing is fitted and worn appropriately.
- Educate sailors and in the case of juniors, the parents on health and safety in sailing or boating.
- Abide by the World Anti-Doping Code and the Australian Sailing Anti-Doping Policy.
- Ensure that the consequences of inappropriate behaviour are clearly understood by sailors and boating participants, and in the case of juniors, the parents.
- Keep up to date with sailing and boating coaching development.
- Operate within the rules and spirit of the sport and teach your sailors and boating participants to do the same.
- Never ridicule or yell at young sailors or boating participants for making a mistake or not coming first.
- Provide a good role model of sporting behaviour and respect the rights, dignity and worth of every sailor and boating participants regardless of their age, gender, ability, cultural background or religion.

ATTACHMENT B4: SAILING/BOATING PARTICIPANT CODE OF CONDUCT

Competitors are expected to comply with the Basic Principle outlined in the Racing Rules of Sailing. As a competitor you shall:

- Be tolerant of other users of the waterways and surrounding environs.
- Never argue with an official.
- Control your temper. Verbal abuse of officials and sledging other sailors/boating participant, deliberately distracting or provoking an opponent are not acceptable or permitted behaviour.
- Not abuse other crew members.
- Abide by the Darwin Sailing Club Anti-Doping Policy.
- Work equally hard for yourself and/or your crew. Your boat's performance will benefit and so will you.
- Be a good sport. Applaud your opponents when they get one up on you.
- Treat all participants as you like to be treated. Do not bully or try to take an unfair advantage of another competitor.
- Cooperate with your fellow sailors/boating participants, without them there would be no competition.
- Participate for your own enjoyment and benefit not just to please others.
- Respect the rights, dignity and worth of all participants regardless of their gender, ability, cultural background or religion.

ATTACHMENT B5: OFFICIALS CODE OF CONDUCT

Officials shall:

- Place the safety and welfare of the participants above all else.
- Accept responsibility for their actions.
- Be impartial.
- Avoid anything which may lead to conflicts of interest.
- Be courteous, respectful and be open to discussion and interaction.
- Value the individual in sport.
- Seek continual self-improvement through study, performance appraisal and regular updating of competencies.
- Encourage inclusivity and access to all areas of officiating.
- Be a positive role model in behaviour and personal appearance.

ATTACHMENT B6: PARENT/GUARDIAN CODE OF CONDUCT

Parents should:

- Remember that children participate in sailing or boating for their enjoyment, not yours.
- Encourage children to participate, not force them.
- Focus on the child's efforts and performance rather than winning or losing.
- Encourage children to sail or boat according to the rules and to settle disagreements without resorting to hostility, violence or abuse.
- Never ridicule or yell at a child for making a mistake or losing a race.
- Remember that children learn best by example. Appreciate good performances and skills displayed by all participants.
- Support all efforts to eliminate verbal and physical abuse from sport.
- Respect officials' decisions and teach children to do likewise.
- Show appreciation of the efforts of volunteer coaches, officials, administrators and other helpers as without them there would be no sport for your children to participate in.
- Respect the rights, dignity and worth of every young person regardless of their gender, ability, cultural background or religion.

ATTACHMENT B7: SPECTATOR CODE OF CONDUCT

Spectators should:

- Applaud good performance and efforts from all sailors, boating participants and teams. Congratulate all sailors/boating participants on their performance regardless of the event's outcome.
- Respect the decisions of officials and teach young people to do the same.
- Never ridicule or scold a young sailor for making a mistake. Positive comments are motivational.
- Condemn the use of violence in any form, whether it is by other spectators, coaches, officials, sailors or boating participants.
- Show respect for your team's opponents. Without them there would be no event.
- Encourage sailors or boating participants to follow the rules and the officials' decisions.
- Do not use violence, harassment or abuse in any form (i.e. do not use foul language, sledge or harass sailors, coaches, officials or other spectators).
- Respect the rights, dignity and worth of every person regardless of their gender, ability, cultural background or religion.

PART C: EMPLOYMENT SCREENING / WORKING WITH CHILDREN CHECK REQUIREMENTS

We are committed to providing a safe environment for children. As part of this, we will recruit staff and volunteers who do not pose a risk to children.

Employment screening and Working with Children Checks can involve criminal history checks, signed declarations, referee checks and other appropriate checks that assess a person's suitability to work with children and young people.

Darwin Sailing Club will meet the requirements of the Northern Territory Working with Children Check laws.

Individuals travelling with children and young people to another state or territory in a work-related capacity must comply with the screening requirements of that state or territory.

ATTACHMENTS

Attachment C1: Member Protection Declaration

Attachment C2: Working with Children Check requirements

ATTACHMENT C1: MEMBER PROTECTION DECLARATION

Darwin Sailing Club has a duty of care to all those associated with our organisation and to the individuals and organisations to whom this policy applies. It is a requirement of our Member Protection Policy that we check the background of each person who works, coaches or has regular unsupervised contact with children and young people under the age of 18 years.

I (name) of

..... (address) born/...../.....

sincerely declare:

- a) I do not have any criminal charge pending before the courts.
- b) I do not have any criminal convictions or findings of guilt for sexual offences, offences related to children or acts of violence.
- c) I have not had any disciplinary proceedings brought against me by an employer, sporting organisation or similar body involving child abuse, sexual misconduct or harassment, other forms of harassment or acts of violence.
- d) I am not currently serving a sanction for an anti-doping rule violation under an Australian Sports Anti- Doping Authority (ASADA) approved anti-doping policy applicable to me.
- e) I will not participate in, facilitate or encourage any practice prohibited by the World Anti-Doping Agency Code or any other ASADA approved anti-doping policy applicable to me.
- f) To my knowledge, there is no other matter that Darwin Sailing Club may consider to constitute a risk to its members, employees, volunteers, athletes or reputation by engaging me.
- g) I will notify the GENERAL MANAGER of the organisation/s engaging me immediately upon becoming aware that any matter set out above has changed.

Declared in the state/territory of

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

CONSENT OF PARENT/GUARDIAN (ON BEHALF OF A PERSON UNDER THE AGE OF 18 YEARS)

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

Name: Signature:

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

ATTACHMENT C2: WORKING WITH CHILDREN CHECK REQUIREMENTS

Working with Children Checks aim to create a child-safe environment and to protect children and young people involved in our sport from physical and sexual harm.

They assess the suitability of people to work with children and young people and can involve:

- criminal history checks;
- signed declarations;
- referee checks; and
- other relevant background checks to assess a person's suitability to work with children and young people.

Detailed information, including the forms required to complete a Working with Children Check, are available from www.safent.nt.gov.au

NORTHERN TERRITORY REQUIREMENTS:

PART D: COMPLAINT HANDLING PROCEDURES

We will deal with all complaints in a fair, timely and transparent manner. All complaints will be treated seriously.

We will provide individuals with a formal and informal process to resolve the matter, along with access to an external complaint handling body, based on the nature of the complaint and our rules and regulations.

We also provide an appeals process for those matters.

We will maintain confidentiality where possible and as provided in this policy and seek to ensure that no one is victimised for making, supporting or providing information about a complaint.

ATTACHMENTS

Attachment D1: Complaints procedure

Attachment D2: Mediation

Attachment D3: Investigation procedure

Attachment D4: Tribunal procedure

ATTACHMENT D1: COMPLAINTS PROCEDURE

Darwin Sailing Club are committed to supporting people associated with our club to make and resolve any complaints they may have in a fair, timely and effective way.

We will endeavour to deal with complaints on a confidential basis. We will not provide information about the complaint to another person without the complainant's consent, except if the law requires us disclose this information or it is necessary to properly deal with the complaint. To ensure fairness for everyone involved, we will provide the full details of the complaint to the person or people against whom the complaint has been made and ask for their response. As a result, it may be difficult for us to resolve complaints made anonymously.

- We will provide **informal and formal procedures** to deal with complaints. Individuals and organisations can also make **complaints to external organisations** under anti-discrimination, child protection and other relevant laws.

INFORMAL APPROACHES

Step 1: Talk with the other person (if safe, reasonable and appropriate)

If you feel confident and comfortable to do so, you can approach the other person to discuss the issues and try and resolve the problem directly.

Step 2: Contact a Membership Officer

We encourage you to talk with one of our Membership Officers (MPIOs) if:

- step 1 (above) is not appropriate
- you are not sure how to handle the problem by yourself
- you want to talk confidentially with someone and find out what options are available to address your concern
- the concern continues after you approached the other person

The names and contact details for our MPIOs can be obtained by contacting Darwin Sailing Club. The MPIO will:

- ask how you would like your concern to be resolved and if you need support
- seek to provide different options for you to address your concern
- act as a support person, if you wish
- refer you to an appropriate person (e.g. a mediator) to help you address your concern, if appropriate
- inform the relevant government authorities and/or police, if required by law to do so
- where possible and appropriate, maintain confidentiality.

Step 3: Decide how to address your concern

After talking with the MPIO, you may decide:

- there is no problem;
- the problem is minor and you do not wish to take the matter forward;

- to try and resolve the problem yourself, with or without a support person;
- to resolve the problem with the help of someone impartial, such as a mediator; or
- to resolve the matter through a formal process.

FORMAL APPROACHES

Step 4: Making a formal complaint

If it is not possible or appropriate to resolve your complaint through an informal process, you may:

- make a formal complaint in writing to the General Manager of Darwin Sailing Club, or
- approach a relevant external agency, such as an anti-discrimination or equal opportunity commission, for advice and assistance.

After receiving a formal complaint, and based on the material you provide, the General Manager will decide whether:

- he or she is the most appropriate person to receive and handle the complaint;
- the nature and seriousness of the complaint requires a formal resolution procedure;
- to refer the complaint to **mediation**;
- to appoint a person to **investigate** the complaint;
- to refer the complaint to a **tribunal hearing**;
- to refer the matter to the **police or other appropriate authority**; and/or
- to implement any interim arrangements that will apply until the complaint process is completed.

In dealing with your formal complaint, the General Manager will take into account:

- whether he or she has had any personal involvement in the circumstances and if so, whether it is appropriate someone else should handle the complaint;
- your wishes, and the wishes of the respondent, regarding how the complaint should be handled;
- the relationship between you and the respondent (e.g. an actual or perceived power imbalance between you and the respondent);
- whether the facts of the complaint are in dispute; and
- the urgency of the complaint, including the possibility that you might face further unacceptable behaviour while the complaint process is underway.

If the General Manager is the appropriate person to handle the complaint, he or she will, where appropriate and/or necessary:

- provide the information received from you to the other person(s) involved and ask for a response;
- decide if there is enough information to determine whether the matter alleged in your complaint did or did not occur; and/or
- determine what, if any, further action to take, including referring the matter for investigation or disciplinary action in accordance with this policy.

Step 5: Investigating the complaint

In some cases, an investigation may be required to determine the facts surrounding the complaint. Our investigations procedure is outlined in Attachment D3.

Following the investigation, a written report will be provided to the Darwin Sailing Club Board.

- If the complaint is referred to **mediation**, we will follow the steps outlined in Attachment D2 or as agreed by you, the respondent and the mediator.
- If the complaint is referred to a **tribunal hearing**, the hearing will be conducted according to the steps outlined in Attachment D4.
- If the complaint is referred to the **police or another external agency**, we will endeavour to provide all reasonable assistance required by the police or the agency.

[Any costs incurred by us relating to the complaint process set out in this policy (e.g. investigation, mediation and/or a tribunal hearing) are to be met by Darwin Sailing Club unless otherwise stated.]

Step 6: Reconsidering a complaint or appealing a decision

If the matter is referred to mediation and is not resolved at mediation, you may request that the Darwin Sailing Club General Manager reconsider the complaint in accordance with Step 3.

In accordance with Darwin Sailing Club rules you or the respondent(s) may also appeal a decision made at a tribunal hearing. The grounds and process for appeals are set out in Attachment D4.

Step 7: Documenting the resolution

The Darwin Sailing Club General Manager will record the complaint, the steps taken to resolve it and the outcome. This information will be stored in a confidential and secure place. If the matter is dealt with at the national level, the information will be stored by Australian Sailing and a copy stored by Darwin Sailing Club.

APPROACHING EXTERNAL ORGANISATIONS

If you feel that you have been harassed or discriminated against, you can seek advice from the territory anti-discrimination or equal opportunity commission. There is no obligation to make a formal complaint. However, if the commission advises you that the issues appear to be within its jurisdiction, you may choose to lodge a formal complaint with the commission.

The commission may investigate your complaint. The commission may also attempt to conciliate the complaint on a confidential basis. If this fails, or if it is not appropriate, the complaint may go to a formal hearing. The tribunal will make a finding and decide what action, if any, will be taken.

If you do lodge a complaint with the commission, an appropriate person from our organisation (e.g. an MPIO) will be available to support you during the process. You may also wish to have a legal representation, particularly if the complaint goes to a formal hearing.

Contact details for the state and territory anti-discrimination and equal opportunity commissions are available on the Play by the Rules website:

<http://www.playbytherules.net.au/resources/quick-reference-guide>

Serious incidents, such as assault or sexual assault, should be reported to the police.

ATTACHMENT D2: MEDIATION

Mediation is a process that seeks to resolve complaints with the assistance of an impartial person – the mediator.

The mediator does not decide who is right or wrong and does not tell either side what they must do. Instead, he or she helps those involved to discuss the issues and seeks to facilitate a mutually agreeable solution.

Our approach to mediation follows the steps set out below.

1. The Darwin Sailing Club General manager will appoint an appropriate mediator to help resolve the complaint. This will be done under the direction of Darwin Sailing Club and in consultation with the complainant and the respondent(s). The mediator will be an independent person in the context of the complaint, however this does not preclude a person with an association with Darwin Sailing Club acting as mediator.
2. The mediator will talk with the complainant and respondent(s) about how the mediation will take place and who will participate. At a minimum, the mediator will prepare an agenda of issues to be discussed.
3. All issues raised during mediation will be treated confidentially. We also respect the rights of the complainant and the respondent(s) to pursue an alternative process if the complaint is not resolved.
4. If the complaint is resolved by mediation, where appropriate the mediator may seek to ensure the parties execute a document that sets out the agreement that has been reached. This agreement will be signed by the complainant and the respondent(s). We expect the parties involved to respect and comply with the terms of the agreement.
5. If the complaint is not resolved by mediation, the complainant may:
6. write to Darwin Sailing Club GENERAL MANAGER to request that the Darwin Sailing Club GENERAL MANAGER reconsider the complaint; and
7. approach any relevant external agency, such as an anti-discrimination or equal opportunity commission, to resolve the matter.

We recognise that there are some **situations where mediation may not be appropriate**, including:

- when the people involved have completely different versions of the incident;
- when one or both parties are unwilling to attempt mediation;
- when there is a real or perceived power imbalance between the people involved;
- matters that involve serious allegations.

ATTACHMENT D3: INVESTIGATION PROCESS

There will be times when a complaint will need to be investigated and information gathered.

An investigation helps determine the facts relating to the incident, if requested, recommendations as to possible findings and next steps.

Any investigation we conduct will be fair to all people involved. The investigation process will be undertaken by an unbiased person.

If we decide that a complaint should be investigated, we will follow the steps outlined below.

1. We will provide a written brief to the investigator that sets out the terms of engagement and his or her roles and responsibilities.
2. The investigator may:
 - interview the complainant and record the interview in writing;
 - provide full details of the complaint to the respondent(s) so that they can respond
 - interview the respondent(s) to allow them to answer the complaint and record the interview in writing;
 - obtain statements from witnesses and collect other relevant evidence;
 - 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);
 - **mischievous, vexatious or knowingly untrue.**
 - provide a report to the Darwin Sailing Club General Manager documenting the complaint, the investigation process, the evidence) and, if requested, any findings and recommendations.
3. We will provide a report to the complainant and the respondent(s) documenting the complaint, the investigation process and summarising key points from the investigation.
4. The complainant and the respondent(s) will be entitled to support throughout this process from their chosen support person or adviser (e.g. MPIO or other person).

ATTACHMENT D4: TRIBUNAL PROCEDURES

We will follow the steps set out below to hear formal complaints made under our Member Protection Policy.

PREPARING FOR A TRIBUNAL HEARING

1. A Tribunal panel will be established, according to the rules set out in our constituent documents, rules and by-laws, to hear a complaint that has been referred to it by the Darwin Sailing Club General Manager.
2. The number of Tribunal panel members required to be present throughout the hearing will be at least three.
3. The Tribunal panel members will be provided with a copy of all the relevant correspondence, reports or information received and sent by the Darwin Sailing Club General Manager relating to the complaint/allegations.
4. The Tribunal hearing will be held as soon as practicable. However, adequate time must be provided for the respondent(s) to prepare for the hearing.
5. The Darwin Sailing Club General Manager will inform the respondent(s) in writing that a Tribunal hearing will take place. The notice will outline:
 - that the person has a right to appear at the Tribunal hearing to defend the complaint/allegations;
 - the details of the complaint and of all allegations, as well as the provision or clause of any policy, rule or regulation that has allegedly been breached;
 - the date, time and venue of the Tribunal hearing;
 - that verbal and/or written submissions can be presented at the Tribunal hearing;
 - that witnesses may attend the Tribunal hearing to support the position of the respondent/s;
 - an outline of any possible sanctions that may be imposed if the complaint is found to be true;
 - That legal representation will not be allowed. If the respondent is a minor, they should have a parent or guardian present. A copy of any investigation report findings will be provided to the respondent(s).
6. The Darwin Sailing Club General Manager will notify the complainant in writing that a Tribunal hearing will take place. The notice will outline:
 - that the person has a right to appear at the Tribunal hearing to support their complaint;
 - the details of the complaint, including any relevant rules or regulations the respondent is accused of breaching;
 - the date, time and venue of the Tribunal hearing;
 - that verbal and/or written submissions can be presented at the Tribunal hearing;
 - that witnesses may attend the Tribunal hearing to support the complainant's position;
 - that legal representation will not be allowed. If complainant is a minor, they should have a parent or legal guardian present.

A copy of the investigation report findings will be provided to the complainant.

7. If the complainant believes the details of the complaint are incorrect or insufficient, he or she should inform the Darwin Sailing Club General Manager as soon as possible so that the respondent(s) and members of the Tribunal panel can be properly informed of the complaint.
8. If possible, the Tribunal panel should include at least one person with knowledge or experience of the relevant laws/rules (e.g. anti-discrimination).

TRIBUNAL HEARING PROCEDURE

1. The following people will be allowed to attend the Tribunal hearing:
 - Tribunal panel members;
 - the respondent(s);
 - the complainant;
 - any witnesses called by the respondent(s);
 - any witnesses called by the complainant;
 - any parent/guardian or support person required to support the respondent or the complainant.
2. 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 this absence, the Tribunal hearing will continue subject to the chairperson being satisfied that all Tribunal notification requirements have been met.
3. If the Tribunal chairperson considers that there is a valid reason for the non-attendance of the respondent(s), or the chairperson does not believe the Tribunal notification requirements have been met, then the Tribunal hearing will be rescheduled to a later date.
4. If the Tribunal chairperson wishes to reschedule the Tribunal hearing date, the Tribunal chairperson will inform the Darwin Sailing Club of the need to reschedule the hearing and the Darwin Sailing Club GENERAL MANAGER will arrange for the Tribunal to be reconvened.
5. The Tribunal chairperson will read out the complaint, ask each respondent if he or she understands the complaint and if he or she agrees or disagrees with the complaint.
6. 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 when determining any sanctions.
7. If the respondent disagrees with the complaint, the complainant will be asked to describe the circumstances that lead to the complaint being made.
 - Reference may be made to brief notes.
 - The complainant may call witnesses.
 - The respondent may question the complainant and any witnesses.
8. The respondent will then be asked to respond to the complaint.
 - Reference may be made to brief notes.

- The respondent may call witnesses.
 - The complainant may ask questions of the respondent and any witnesses.
9. The complainant and respondent(s) may be present when evidence is presented to the Tribunal hearing. Witnesses may be asked to wait outside the hearing until they are required.
10. The Tribunal may:
- consider any evidence, and in any form, that it deems relevant;
 - ask questions of any person giving evidence;
 - limit the number of witnesses (including limiting witnesses to those persons who only provide new evidence);
 - require (to the extent it has power to do so) the attendance of any witness it deems relevant; and
 - act in an inquisitorial manner in order to establish the truth of the issue/complaint before it.
11. Video evidence, if available, may be presented. Arrangements for the viewing of this evidence must be made entirely by the person(s) wishing to offer this type of evidence.
12. If the Tribunal panel considers that at any time during the hearing there is any unreasonable or intimidatory behaviour from anyone, the Tribunal chairperson may deny further involvement of that person in the hearing.
13. After all the evidence has been presented, the Tribunal will make its decision in private. The Tribunal must decide whether the complaint has, on the balance of probabilities, been substantiated.
14. All Tribunal decisions will be by majority vote.
15. The Tribunal chairperson may announce the decision of the Tribunal at the conclusion of the hearing. Alternatively, he or she may reserve the decision of the Tribunal at the conclusion of the hearing and deliver the decision at a later time.
16. The respondent(s) will have the opportunity to make submissions to the Tribunal in relation to any sanctions that may be imposed.
17. Within 48 hours of the Tribunal delivering its decision, the Tribunal chairperson will:
- forward a notice of the Tribunal's decision to the Darwin Sailing Club GENERAL MANAGER, including details of any sanction imposed.
 - forward a letter reconfirming the Tribunal's decision to the respondent(s), including any sanction imposed. The letter should also outline the process and grounds for an appeal, if allowed.
18. The Tribunal does not need to provide written reasons for its decision.

APPEALS PROCEDURE

19. A complainant or a respondent(s) may lodge with Darwin Sailing Club an appeal in relation to the decision of a Tribunal on one or more of the following grounds:

- that a denial of procedural fairness has occurred;
- that the sanction imposed is unjust and/or unreasonable;
- that the decision was not supported by the information/evidence provided at the mediation or to the Tribunal Hearing;

- 20.** A person wanting to appeal must lodge a letter setting out the basis for their appeal with the Darwin Sailing Club GENERAL MANAGER within seven (7) days of the decision being made. An appeal fee of \$500 shall be included with the letter of intention to appeal.
- 21.** If the letter of appeal is not received by the Darwin Sailing Club GENERAL MANAGER within this time, the right of appeal will lapse.
- 22.** The letter of appeal and the notice of the Tribunal's decision (clause 24) will be forwarded to the Darwin Sailing Club GENERAL MANAGER to review and to decide whether there are sufficient grounds for the appeal to proceed. The Darwin Sailing Club GENERAL MANAGER may invite any witnesses to the meeting that he or she believes are required to make an informed decision.
- 23.** If the appellant has not shown sufficient grounds for an appeal in accordance with clause 26, then the appeal will be rejected. The appellant will be notified in writing, including the reasons for the decision. The appeal fee will be forfeited.
- 24.** If the appeal is accepted, an Appeal Tribunal with new panel members will be convened to rehear the complaint, and the appeal fee will be refunded.
- 25.** The Tribunal hearing procedure shall be followed for the Appeal Tribunal.
- 26.** The decision of the Appeal Tribunal will be final and binding.

PART E: REPORTING REQUIREMENTS AND DOCUMENTS/FORMS

We will ensure that all the complaints we receive, both formal and informal, are properly documented. This includes recording how the complaint was resolved and the outcome of the complaint.

This information, and any additional records and notes, will be treated confidentially (subject to disclosure required by law or permitted under this policy) and stored in a secure place.

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

We will ensure that everyone who works with our organisation in a paid or unpaid capacity understands how to appropriately receive and record allegations of child abuse and neglect and how to report those allegations to the relevant authorities in their state or territory.

ATTACHMENTS

Attachment E1: Record of informal complaint

Attachment E2: Record of formal complaint

ATTACHMENT E2: RECORD OF FORMAL COMPLAINT

Complainant's Name	<input checked="" type="checkbox"/> Over 18 <input checked="" type="checkbox"/> Under 18	Date Formal Complaint Received: / /
Complainant's contact details	Phone: Email:	
Complainant's role/position	<input checked="" type="checkbox"/> Administrator (volunteer) <input checked="" type="checkbox"/> Sailing/boating participant <input checked="" type="checkbox"/> Coach/Instructor or Assistant <input checked="" type="checkbox"/> Employee (paid) <input checked="" type="checkbox"/> Official	<input type="checkbox"/> Parent <input type="checkbox"/> Spectator <input checked="" type="checkbox"/> Support Personnel <input checked="" type="checkbox"/> Other
Name of person complained about (respondent)	<input checked="" type="checkbox"/> Over 18	<input checked="" type="checkbox"/> Under 18
Respondent's role/position	<input checked="" type="checkbox"/> Administrator (volunteer) <input checked="" type="checkbox"/> Sailing/boating participant <input checked="" type="checkbox"/> Coach/Instructor or Assistant <input checked="" type="checkbox"/> Employee (paid) <input checked="" type="checkbox"/> Official	<input checked="" type="checkbox"/> Parent <input checked="" type="checkbox"/> Spectator <input checked="" type="checkbox"/> Support Personnel <input checked="" type="checkbox"/> Other
Location/event of alleged incident		
Description of alleged incident		
Nature of complaint (category/basis/grounds) Tick more than one box if necessary	<input type="checkbox"/> Harassment or <input checked="" type="checkbox"/> Discrimination <input type="checkbox"/> Sexual/sexist <input checked="" type="checkbox"/> Selection dispute <input checked="" type="checkbox"/> Coaching methods <input type="checkbox"/> Sexuality <input checked="" type="checkbox"/> Personality clash <input checked="" type="checkbox"/> Verbal abuse <input type="checkbox"/> Race <input checked="" type="checkbox"/> Bullying <input checked="" type="checkbox"/> Physical abuse <input type="checkbox"/> Religion <input checked="" type="checkbox"/> Disability <input checked="" type="checkbox"/> Victimisation <input checked="" type="checkbox"/> Pregnancy <input checked="" type="checkbox"/> Child Abuse <input checked="" type="checkbox"/> Unfair decision <input checked="" type="checkbox"/> Other	
Methods (if any) of attempted informal resolution		

Formal resolution procedures followed (outline)	
If investigated:	Finding
If heard by Tribunal:	Decision Action recommended
If mediated:	Date of mediation: Both/all parties present Agreement Any other action taken
If decision was appealed	Decision Action recommended
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: Date / /
Signed by:	Complainant: Respondent:

This record and any notes must be kept confidential and secure. If the complaint is of a serious nature, or if it is taken to and/or dealt with at the national level, the original record must be provided to Darwin Sailing Club and a copy kept with the organisation where the complaint was first made.