

Team HOTHAM

TH 1. Member Policy

1. Introduction

Mount Hotham Racing Squad (MHRS) promotes the health and well being of all our members and staff. Individual care and concern should be at the core of all our actions. MHRS does not tolerate abuse in any form. All members of MHRS are committed to ensuring a safe and caring environment, which promotes personal growth and positive self-esteem for all.

All Members of the MHRS have signed and are bound by the Agreement. Under the Agreement members may be subject to disciplinary action. This Policy sets out the process for and the action that may be taken under the Agreement.

All Athletes have a right TO LEARN, TO BE SAFE, and TO BE RESPECTED.

2. Purpose of this policy

MHRS is committed to providing an environment where athletes, coaches, parents and staff are able to work effectively without fear of harassment or bullying. MHRS respects and values the diversity of its members and undertakes to prevent and eliminate harassment and bullying on any basis. MHRS seeks to do this by providing clear guidelines and policies under which MHRS members and staff are to act.

The aim of MHRS is to:

- 2.1 Foster an environment that respects and values the diversity of its members and staff.
- 2.2 Create an environment free from harassment and bullying and where all members and staff are treated with dignity, courtesy and respect.
- 2.3 Respond to complaints in a sensitive, fair, timely and confidential manner.
- 2.4 Promote appropriate standards of conduct at all times.

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

3. Who this Policy Applies To

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

- 3.1 Members of the MHRS;
- 3.2 Employees of or independent contractors to MHRS;
- 3.3 Members of the MHRS Committee;
- 3.4 Support personnel appointed or elected to teams and squads (e.g. managers, physiotherapists, psychologists, masseurs, sport trainers);
- 3.5 Coaches and assistant coaches;
- 3.6 Athletes;
- 3.7 Athletes, coaches, officials and other personnel participating in events and activities, including camps and training sessions, held or sanctioned by MHRS;

- 3.8 Any other person including spectators, parents/guardians and sponsors, who or which agree in writing to be bound by this policy;
- 3.9 All persons who have entered into the Agreement;
- 3.10 All persons who by their continued participation in the MHRS under the terms of the Agreement after the adoption by the Committee of this Policy, are deemed to have accepted the terms of this policy and are bound by it. To the extent that any inconsistency exists between this policy and the Agreement, then this policy prevails.

4. Responsibilities of the Organisation

The MHRS will:

- 4.1 Adopt, implement and comply with this policy;
- 4.2 Publish, distribute and promote this policy and the consequences of breaches;
- 4.3 Promote and model appropriate standards of behaviour at all times;
- 4.4 Promptly deal with any breaches or complaints made under this policy in a sensitive, fair, timely and confidential manner;
- 4.5 Apply this policy consistently;
- 4.6 Recognise and enforce any penalty imposed under this policy;
- 4.7 Ensure that a copy of this policy is available or accessible to the persons and associations to whom this policy applies; and
- 4.8 Monitor and review this policy.

5. Individual Responsibilities

Individuals bound by this policy are responsible for:

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

6. Position Statements

6.1 Child Protection

MHRS acknowledges that our staff, members and volunteers provide a valuable contribution to the positive experiences of children involved in our sport. MHRS aims to continue this and to take measures to protect the safety and welfare of children participating in our sport by:

- Prohibiting any form of abuse against children by any person, whether an adult or another child;
- Ensuring people have completed a satisfactory Working with Children Check 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;
- Adopting practices that reduce risks and provide the greatest opportunity of having a child safe environment.

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

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 Attachment A4.

6.2 Taking Images of Children

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

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

We require our members, member associations and clubs to do likewise.

6.3 Anti-Discrimination and Harassment

The MHRS 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 Dictionary at clause 10, are against the law.

6.4 **Drugs and Alcohol**

Save for specific prescription medication prescribed for individual use by a medical practitioner MHRS prohibits the use by or the provision to an athlete or member of MHRS of alcohol or drugs.

7. **Complaints Procedures**

7.1 **Complaints**

MHRS 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 Member Protection Officer (MPIO).

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

All complaints will be dealt with promptly, seriously, sensitively and confidentially. Our complaint procedures are outlined in Attachment A1.

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

7.2 **Vexatious Complaints & Victimisation**

MHRS aims for our complaints procedure to have integrity and be free of unfair repercussions or victimisation. If at any point in the complaints process the MPIO considers that a complainant has **knowingly** made an untrue complaint or the complaint is vexatious or malicious, the matter may be referred to the Committee of the MHRS for appropriate action which may include disciplinary action against the complainant.

MHRS 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.

7.3 **Mediation**

MHRS aims to resolve complaints with a minimum of fuss. Complaints may be resolved by agreement between the people involved with no need for disciplinary action. Mediation allows those involved to be heard and to come up with mutually agreed solutions.

Mediation may occur before or after the investigation of a complaint. If a complainant wishes to resolve the complaint with the help of a mediator, the President will, in consultation with the complainant, arrange for a neutral third party mediator where possible. Lawyers are not able to negotiate on behalf of the complainant and/or the respondent. More information on the mediation process is outlined in Attachment A2.

7.4 **Tribunals**

A Tribunal may be convened to hear a formal complaint;

- referred to it by the President; and/or;
- for an alleged breach of this policy.

Our Tribunal procedure is outlined in Attachment A5.

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 TH**

8. What is a Breach of this policy

It is a breach of this policy for any person to which this policy applies, to do anything contrary to this policy, including but not limited to:

- 8.1 Bringing the sport or the MHRS into disrepute, or acting in a manner likely to bring the sport or the MHRS into disrepute;
- 8.2 Failing to follow MHRS policies (including this policy) and procedures for the protection, safety and welfare of any person;
- 8.3 Discriminating against, engaging in harassing, abuse or bullying (including cyber bullying) of any person;
- 8.4 Victimising another person for reporting a complaint;
- 8.5 Engaging in a sexually inappropriate relationship with a person that they supervise, or have influence, authority or power over;
- 8.6 Any person who is a member of MHRS engaging in sexual activity with another athlete or squad member;
- 8.7 Verbally or physically assaulting another person, intimidating another person or creating a hostile environment within the sport;
- 8.8 Disclosing to any unauthorised person or organisation any MHRS information that is of a private, confidential or privileged nature;
- 8.9 Making a complaint they **knew** to be untrue, vexatious, malicious or improper;
- 8.10 Failing to comply with a penalty imposed after a finding that the individual or organisation has breached this policy; or
- 8.11 Failing to comply with a direction given to the individual or organisation during the discipline process.

9. Disciplinary Measures

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

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

9.1 Individual

Subject to contractual and employment requirements, if a finding is made by the President of MHRS under Step 4 of the Attachment A1 or by a Tribunal that an individual has breached this policy, one or more of the following forms of discipline may be imposed:

- 9.1.1 A direction that the individual make a verbal and/or written apology;
- 9.1.2 A written warning;
- 9.1.3 A direction that the individual attend counselling to address their behaviour;
- 9.1.4 A withdrawal of any awards, placings, records, achievements bestowed in any tournaments, activities or events held or sanctioned by the MHRS;
- 9.1.5 A suspension of the individual's membership or participation or engagement in a role or activity;
- 9.1.6 Termination of the individual's membership, appointment or engagement;
- 9.1.7 A recommendation that the MHRS terminate the individual's membership, appointment or engagement;
- 9.1.8 A fine;
- 9.1.9 Any other form of discipline that the Committee of the MHRS considers appropriate.

9.2 Factors to consider

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

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

10. Dictionary

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

Abuse is a form of harassment and includes physical abuse, emotional abuse, sexual abuse, neglect, and abuse of power. Examples of abusive behaviour include but are not limited to bullying, humiliation, verbal abuse and insults.

Agreement means the Partner Agreement and Code of Conduct of MHRS.

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

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

- Physical abuse by hurting a child or a child's development (e.g. hitting, shaking or other physical harm; giving a child alcohol or drugs; or training that exceeds the child's development or maturity).
- Sexual abuse by adults or other children where a child is encouraged or forced to watch or engage in sexual activity or where a child is subject to any other inappropriate conduct of a sexual nature (e.g. sexual intercourse, masturbation, oral sex, pornography including child pornography or inappropriate touching or conversations).

- Emotional abuse by ill-treating a child (e.g. humiliation, taunting, sarcasm, yelling, negative criticism, name calling, ignoring or placing unrealistic expectations on a child).
- Neglect (e.g. failing to give food, water, shelter or clothing or to protect a child from danger or foreseeable risk of harm or injury).

Complaint means a complaint made under clause 7.1.

Complainant means a person making a complaint.

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

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

Examples of Discrimination

- **Age:** A club refuses to allow an older person to coach a team simply because of age.
- **Breastfeeding:** A member of the club who is breastfeeding a baby in the club rooms is asked to leave.
- **Disability:** A junior player 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:** An athlete is ostracised from her team after it becomes known that she is a lesbian.
- **Marital Status:** A player is deliberately excluded from team activities and social functions because she is single
- **Pregnancy:** A woman is dropped from a squad when she becomes pregnant.
- **Race:** An 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.

Harassment is any type of behaviour that the other person does not want and that is offensive, abusive, belittling or threatening. The behaviour is unwelcome and a reasonable person would recognise it as being unwelcome and likely to cause the recipient to feel offended, humiliated or intimidated.

Unlawful harassment is sexual or targets a person because of their race, sex, pregnancy, marital status, sexual orientation or some other 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 or
- not selecting a participant if the person's disability means he or she is not reasonably capable of performing the actions reasonably required for that particular sporting activity.

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

It is also a breach of discrimination law to victimise a person who is involved in making a complaint of discrimination or harassment. Example: a 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.

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

Member means a member of the MHRS

Member Protection Information Officer (MPIO) means a person who is the first point of contact for a person reporting a complaint under, or a breach of, this Policy who is the person who holds the office of Athletics Director or any like office in the event of that office being replaced, or any other such person also appointed by the Committee of the MHRS for the purpose of discharging the office of MPIO.

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

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

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

This policy means this Member Protection Policy.

Respondent means the person who is being complained about.

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

Sexual harassment means unwanted, unwelcome or uninvited behaviour of a sexual nature which 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.

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

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

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

Victimisation means subjecting a person or threatening to subject a person to any detriment or unfair treatment because that person has or intends to pursue their rights to make a complaint under government legislation (e.g. anti-discrimination) or under this Policy, or for supporting such a person.

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