



**Scuba Divers Federation of South Australia Inc.**

**MEMBER PROTECTION POLICY**

**VERSION No.1**

**13 July 2010**

Review History

Preface

**PART A – Scuba Divers Federation of South Australia Inc (“SDFSAS”) Member Protection Policy**

1. SDFSAS’s Core Values
2. Purpose of Policy
3. Who this Policy Applies To
4. Code of Conduct
5. Organisational Responsibilities
6. Individual Responsibilities
7. Policy Position Statements
  - Anti-Discrimination & Harassment Policy
  - Other Relevant Policies
8. Complaints Procedures
  - Complaints
  - Vexatious Complaints & Victimisation
  - Mediation
  - Tribunals
9. What is a Breach of this Policy
10. Forms of Discipline
11. Dictionary

**PART B – ATTACHMENTS: CHILD PROTECTION REQUIREMENTS**

- B1. SA Child Protection

**PART C – ATTACHMENTS: COMPLAINT HANDLING PROCEDURES**

- C1. Overview of Complaints Procedure
- C2. Mediation
- C3. Investigation Procedure – General
- C4. Investigation Procedure – Child Abuse
- C5. Hearings & Appeals Tribunal Procedure
- C6. Disciplinary Measures

**PART D – ATTACHMENTS: ROLE-SPECIFIC CODES OF CONDUCT**

- D1. Official Code of Conduct

**PART E – ATTACHMENTS: REPORTING DOCUMENTS/FORMS**

- E1 Record of Informal Complaint
- E2 Record of Formal Complaint
- E3 Record of Child Abuse Allegation
- E4 Record of Mediation
- E5 Record of Tribunal Decision

## REVIEW HISTORY OF SDFSA MEMBER PROTECTION POLICY

<b>Version</b>	<b>Date reviewed</b>	<b>Date endorsed</b>	<b>Content reviewed/purpose</b>
One	Created 24.3.2009	March 2009	<ul style="list-style-type: none"><li>• Modified from Template for discussion and amendment</li></ul>
Two	As adopted 13.7.2010	July 2010	<ul style="list-style-type: none"><li>• Initial Adoption</li></ul>
Three			<ul style="list-style-type: none"><li>•</li></ul>
Four			<ul style="list-style-type: none"><li>•</li></ul>

## PREFACE

- This Member Protection Policy has been introduced to ensure the SDFSA's core values, good reputation, positive behaviour and attitudes are maintained and upheld.
- The SDFSA is committed to provide an environment safe for recreational scuba divers, that is free from harassment and abuse for everyone, and promotes respectful and positive behaviour and values.
- The Member Protection Policy provides a code of conduct forming the basis of appropriate and ethical conduct which everyone must abide by.
- This Member Protection Policy supports the SDFSA's commitment to the principles of The Essence of Australian Sport
- This policy is an essential part of the SDFSA's proactive and preventative approach to tackling inappropriate behaviour.
- The Executive of the SDFSA is committed to ensuring that everyone associated with the organisation complies with the policy.

Hank van der Wijngaart

President

Scuba Divers Federation of South Australia Inc.

16 July 2010

## PART A: SDFSA MEMBER PROTECTION POLICY

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### 1. SDFSA's Core Values

The objectives of the Scuba Divers Federation of South Australia to:

- Promote and encourage scuba diving as a recreational activity.
- Promote understanding between the public and recreational scuba divers.
- Represent the interests of members in any matters which may arise.
- Encourage the conservation, enhancement and rehabilitation of the marine and freshwater environments.
- Liaise with other organisations or agencies which might represent the interests of the association.
- Notify members of any information in respect to scuba diving and the association's related interests.

The goals of the federation are to:

- Act as a peak body for recreational scuba diving clubs in SA
- Represent all recreational scuba divers in all relevant diving matters including the provision of information for decision making by the government and / or the general public

### 2. Purpose of this policy

This Member Protection Policy aims to ensure our core values, good reputation and positive behaviours and attitudes are maintained. It assists us in ensuring that every person involved in our sport is treated with respect and dignity, and is safe and protected from abuse. This policy also ensures that everyone involved in our sport is aware of his or her legal and ethical rights and responsibilities. This policy also reflects our support and implementation of the sport industry principles and values outlined in **The Essence of Australian Sport** – principles of fairness, respect, responsibility and safety.

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

This policy has been endorsed by SDFSA and has been incorporated into our By-Laws. The policy starts on 24.3.2009 and will operate until replaced. This policy and/or its attachments may be amended from time to time by resolution of the Federation at a Special General Meeting. Copies of the policy and its attachments can be obtained from our website or from the Secretary.

### 3. Who this Policy Applies To

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

- Individuals sitting on boards, committees and sub-committees;
- Employees and volunteers;
- Members, including life members;
- Member associations;
- Affiliated clubs and associated organisations;
- Any other person or organisation that is a member of or affiliated to the SDFSA;

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

### 4. Code Of Conduct

SDFSA requires every individual and organisation bound by this policy to:

- 4.1 Be ethical, fair and honest in all their dealings with other people and SDFSA;
- 4.2 Treat all persons with respect and courtesy and have proper regard for their dignity, rights and obligations;
- 4.3 Comply with SDFSA's constitution, rules and policies including this member protection policy;
- 4.4 Operate within the rules and spirit of the sport;

- 4.5 Comply with all relevant Australian laws (Federal and State), particularly anti-discrimination and child protection laws;
- 4.6 Be responsible and accountable for their conduct; and
- 4.7 Abide by the relevant Role-Specific Codes of Conduct outlined in Part D of this policy.

## **5. Organisational Responsibilities**

The member clubs are encouraged to:

- 5.1 Adopt, implement and comply with this policy;
- 5.2 Publish, distribute and otherwise promote this policy and the consequences for breaching it;
- 5.3 Promote appropriate standards of conduct at all times;
- 5.4 Promptly deal with any breaches of or complaints made under this policy in an impartial, sensitive, fair, timely and confidential manner;
- 5.5 Apply this policy consistently without fear or favour;
- 5.6 Recognise and enforce any penalty imposed under this policy;
- 5.7 Ensure that a copy of this policy is available or accessible to the persons to whom this policy applies
- 5.8 Appoint Member Protection Information Officers (MPIOs) or have access to appropriately trained people to receive and handle complaints and allegations and display the names and contact details in a way that is readily accessible; and
- 5.9 Monitor and review this policy at least annually.

## **6. Individual Responsibilities**

Individuals bound by this policy are responsible for:

- 6.1 Making themselves aware of the policy and complying with the standards of conduct outlined in this policy;
- 6.3 Complying with all other requirements of this policy;
- 6.4 Co-operating in providing a discrimination and harassment free sporting environment;
- 6.5 Understanding the possible consequences of breaching this policy.

## **7. Policy Position Statements**

### **7.1 Anti-Discrimination and Harassment Policy**

SDFSA aims to provide an environment where all those involved in its activities are treated with dignity and respect, and without harassment or discrimination.

SDFSA recognises that all those involved in its activities cannot enjoy themselves, or be effective or fully productive if they are being treated unfairly, discriminated against or harassed because of their age, disability, family responsibilities, gender identity, homosexuality or sexual orientation, irrelevant medical or criminal record, marital status, political belief, pregnancy or breastfeeding, race, religion, sex, social origin and/or trade union membership/activity.

SDFSA prohibits all forms of harassment and discrimination based on personal characteristics listed in the Dictionary. Discrimination and harassment are extremely distressing, offensive, humiliating and/or threatening and create an uncomfortable and unpleasant environment. In most circumstances discrimination and harassment are against the law.

Descriptions of some of the types of behaviour which could be regarded as harassment or discrimination are provided in the Dictionary at clause 11.

If any person feels they are being harassed or discriminated against by another person or organisation bound by this policy, please refer to our complaints procedure outlined in attachment Part C of this policy. This will explain what to do about the behaviour and how the SDFSA will deal with the problem.

## 7.2 Other relevant policies

Other SDFSA relevant policies can be found at <http://www.sdfsa.net.au>. Some of the policies which contribute to the welfare of all those involved in our activities include:

- *Risk Management Policies*
- *Hobart Mooring Buoy Policy*

## 8. Complaints Procedures

### 8.1 Complaints

SDFSA aims to provide an easy to use, confidential and trustworthy procedure for complaints based on the principles of natural justice. Any person may report a complaint about a person/s or organisation bound by this policy if they reasonably believe that a person/s or an organisation has breached this policy. A complaint should be reported to the MPIO or a member of the SDFSA Executive.

A complaint may be reported as an informal or formal complaint. The complainant decides whether the complaint will be dealt with informally or formally unless the MPIO or a member of the SDFSA Executive considers that the complaint falls outside the parameters of this policy and would be better dealt with another way.

All complaints will be dealt with promptly, seriously, sensitively and confidentially. Our complaint procedures are outlined in attachment Part C of this policy.

### 8.2 Vexatious Complaints & Victimisation

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

SDFSA will also take all necessary steps to make sure that people involved in a complaint are not victimised by anyone for coming forward with a complaint or for helping to sort it out. Disciplinary measures will be imposed on anyone who victimises another person for making a complaint.

### 8.3 Mediation

SDFSA aims to sort out complaints with the minimum of fuss wherever possible. In many cases, complaints can be sorted out by agreement between the people involved with no need for disciplinary action. The people involved in a formal complaint - the complainant and the person complained about (respondent) - may also seek the assistance of a neutral third person or a mediator. Lawyers are able to negotiate on behalf of the complainant and/or respondent.

Mediation may occur either before or after an investigation of a complaint. If a complainant wishes to try and resolve the complaint with the assistance of a mediator, the MPIO will, in consultation with the complainant, arrange for a mediator to mediate the complaint. More information on the mediation process is outlined in attachment Part C of this policy.

### 8.4 Tribunals

A hearings tribunal may be formed by the SDFSA Executive to hear a formal complaint that has been referred by the MPIO or a member of the SDFSA Executive, or an alleged breach of the policy. Our tribunal hearings procedure is outlined in attachment Part C of this policy.

A respondent may lodge one appeal only to the appeal tribunal in respect of a decision of a hearing tribunal. The decision of the appeal tribunal is final and binding on the people involved to the appeal. Our appeals process is outlined in attachment Part C of this policy.

Every organisation bound by this policy will recognise and enforce any decision made, and form of discipline imposed, by an appeals tribunal under this policy.

## 9. What is a Breach of this policy

It is a breach of this policy for any person or organisation to which this policy applies, to have been found to have;

- 9.1 Done anything contrary to this policy;
- 9.2 Breached the Code of Conduct and Role-Specific Codes of Conduct;
- 9.3 Brought the sport and or the SDFSA into disrepute;
- 9.4 Discriminated against or harassed any person;
- 9.5 Victimised another person for reporting a complaint;
- 9.6 Disclosed to any unauthorised person or organisation any SDFSA information that is of a private, confidential or privileged nature;
- 9.7 Made a complaint they knew to be untrue, vexatious, malicious or improper;
- 9.8 Failed to comply with a penalty imposed after a finding that the individual or organisation has breached this policy;
- 9.9 Failed to comply with a direction given to the individual or organisation during the discipline process.

## 10. Forms of Discipline

If an individual or organisation to which this policy applies breaches this policy, one or more forms of discipline may be imposed. These may include making a verbal or written apology, paying a fine, being suspended or de-registered or having a person's appointment or employment terminated. More information on the range of disciplinary measures and the factors that will be considered before imposing discipline is at attachment Part C of this policy.

## 11. 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 bullying, humiliation, verbal abuse and insults.

**Affiliated club** means any member club of the SDFSA.

**Complaint** means a complaint made under clause Part C of this policy.

**Complainant** means the person making a complaint.

**Discrimination** means treating or proposing to treat someone less favourably than someone else because of a particular characteristic in the same or similar circumstances in certain areas of public life (this is Direct Discrimination). The law also covers **Indirect Discrimination**. This is 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. 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 participate simply because of their age.

**Breastfeeding:** A member of the club who is breastfeeding her baby in the club rooms is asked to leave.

**Disability:** A person is overlooked because of her mild epilepsy.

**Family responsibilities:** A club decides not to promote an employee because he has a child with a disability even though the employee is the best person for the job.

**Gender Identity:** A transgender contract worker is harassed when employees refuse to call her by her female name.

**Homosexuality:** A person is ostracised from her team after she tells a team mate 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 her 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 does not return and that is offensive, abusive, belittling or threatening. The behaviour is unwelcome and of a type that a reasonable person would recognise as being unwelcome and likely to cause the recipient to feel offended, humiliated or intimidated.

Unlawful harassment includes the above but is either sexual or targets a person because of their race, sex, pregnancy, marital status, sexual orientation or 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 or repeated. It may be explicit or implicit, verbal or non-verbal.

Under this policy discrimination and harassment are not permitted in employment (including volunteer and unpaid employment); when seeking or retaining membership of clubs and organisations (including the rights and privileges of membership).

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

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

Public acts of racial hatred which are reasonably likely in the circumstances 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.

**Mediator** means a person appointed to mediate complaints made under this policy.

**Member** means any member, club or individual.

**Member protection** is a term used by the Australian sport industry to describe the practices and procedures that protect members – both individual members such as players, coaches and officials, and the member organisations such as clubs, state associations, other affiliated associations and the national body. Member protection involves:

- protecting those that are involved in sport activities from harassment, abuse, discrimination and other forms of inappropriate behaviour
- adopting appropriate measures to ensure the right people are involved in an organisation, and
- providing education.

**Member Protection Information Officer (MPIO)** means a person trained to be the first point of contact for a person reporting a complaint under, or a breach of, this policy. The MPIO provides confidential information and moral support to the person with the concern or who is alleging harassment or a breach of this policy. They help the complainant deal with any emotions they may have about what has happened and operate as a sounding board as the complainant decides what they want to do. The MPIO may accompany the complainant in anything they decide to do, if it feels appropriate and they are happy to do it.

**Natural justice** incorporates the following principles:

- a person who is the subject of a complaint must be fully informed of the allegations against them
- a person who is the subject of a complaint must be given full opportunity to respond to the allegations and raise any matters in their own defence
- all parties need to be heard and all relevant submissions considered
- irrelevant matters should not be taken into account
- no person may judge their own case
- the decision maker/s must be unbiased, fair and just
- the penalties imposed must not outweigh the 'crime'

**Policy and this policy** mean this Member Protection Policy.

**Respondent** means the person who is being complained about.

**Role-specific codes of conduct** 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.

**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 another person to make a complaint.

**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.

## **2010 PART B: SCUBA DIVERS FEDERATION OF SA INC - CHILD PROTECTION REQUIREMENTS**

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Child Protection is about keeping children safe from abuse and protecting them from people who are unsuitable to work with children. Child abuse is illegal in all states and territories of Australia, with each having their own child protection laws that cover the reporting and investigation of cases of child abuse.

In South Australia child protection legislation places specific requirements upon individuals and organisations involved in a range of areas including sport and recreation.

Please be aware that state and territory child protection requirements may apply to individuals and organisations originating outside of the states with the legislation in place. For example, if one of our state associations or affiliated clubs takes junior players into New South Wales for training camps, competition or other activities, those travelling with the teams must comply with the NSW legislative requirements.

Please note that the state specific child protection requirements apply despite the existence or absence of our Member Protection By-laws.

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## **PART C: PROCEDURES**

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To ensure due process, consistency and that the principles of natural justice are followed in all aspects of handling or conducting complaints, allegations, investigations, tribunals and disciplinary measures, the SDF will follow and implement the following procedures:

- C1 Complaints Procedure
- C2 Mediation Procedure
- C3 Investigation Procedure
- C4 Hearings and Appeals Tribunal Procedure
- C5 Disciplinary Measures

## **Attachment C1: COMPLAINTS PROCEDURE**

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### **Step 1**

As a first step you (the complainant) should try to sort out the problem with the person or people involved by meeting within 14 days and discussing the matter in dispute.

### **Step 2**

If:

- the first step is not possible/reasonable; or
- you are not sure how to handle the problem by yourself; or
- you just want to talk confidentially about the problem with someone and get some more information about what you can do; or
- the problem continues after you tried to approach the person or people involved; then

talk with the Member Protection Information Officers (MPIO) or to a member of the SDFSA Executive.

The MPIO or a member of the SDFSA Executive will:

- take notes about your complaint (which they will keep in a secure and confidential place);
- try to sort out the facts of the problem;
- ask what outcome/how you want the problem resolved and if you need support;
- provide possible options for you to resolve the problem;
- explain how our complaints procedure works;
- act as a support person if you so wish;
- refer you to an appropriate person to help you resolve the problem, if necessary;
- inform the relevant government authorities and/or police if required by law to do so; and
- maintain strict confidentiality.

### **Step 3**

After talking with the MPIO or a member of the SDFSA Executive, you may decide:

- there is no problem;
- the problem is minor and you do not wish to take the matter forward;
- to try and work out your own resolution (with or without a support person such as a MPIO or a member of the SDFSA Executive); or
- to seek an informal mediated resolution with the help of a third person (such as a mediator).

### **Step 4**

If your complaint is not resolved to your satisfaction, you may:

- make a formal complaint in writing to the SDFSA Executive.

### **Step 5**

If you decide to make a formal complaint in writing under Step 4, the SDFSA Executive will, on receiving the formal complaint and based on the material you have provided consider the matter. The SDFSA Executive may decide:

- they have sufficient information to handle the complaint;
- to appoint a person/s to investigate the complaint;
- to refer the complaint to an informal or formal mediation session;
- to refer the matter to the police or other appropriate authority; and/or
- to implement any interim administrative or other arrangements that will apply until the complaint process set out in these Procedures is completed.

In making the decision(s) outlined above, the person/s appointed to investigate the complaint will take into account:

- whether they have had any personal involvement in the circumstances giving rise to the complaint and, if so, whether their ability to impartially manage the complaint is compromised or may appear to be compromised;
- whether, due to the nature of the complaint, specific expertise or experience may be required to manage the complaint;
- your wishes, and the wishes of the respondent, regarding the manner in which the complaint should be handled;
- whether, due to the nature of the complaint, the relationship between you and the respondent and any other relevant factors, the complaint should be referred (or should not be referred) to informal or formal mediation or to a hearings tribunal. Relevant factors may include an actual or perceived power imbalance between you and the respondent, the nature of any ongoing working relationship between you and the respondent, and the personal attributes of you and the respondent (for example, if one party does not speak English fluently, some of the possible complaints resolution mechanisms may not be appropriate);
- the nature and sensitivity of any information or other material that must be provided by you, the respondent, and any of the other people involved in the complaint;
- whether the facts of the complaint are in dispute; and
- the urgency of the complaint, including the likelihood and the consequences (if the complaint is ultimately proven) that you will be subject to further unacceptable behaviour while the complaint process set out in these Procedures is being conducted.

The person/s appointed to handle the complaint, will, to the extent that these steps are necessary:

- get full information from you (the complainant) about your complaint and how you want it resolved (if this information has not already been obtained through earlier steps);
- put the information they've received from you to the person/people you're complaining about and ask them to provide their side of the story;
- decide whether they have enough information to determine whether the matter alleged in your complaint did or didn't happen; and/or
- determine what, if any, further action to take.

## Step 6

If:

- the person/s is appointed to investigate the complaint under **Step 5**, the investigator/s will conduct the investigation in accordance with Attachment 3 and provide a written report to SDFSA Executive who will determine what, if any, further action to take. This action may include referring the complaint to an informal or a formal mediation session, disciplinary action and/or refer the matter to the police or other appropriate authority;
- the complaint is referred to an informal or a formal mediation session under **Step 5**, the mediation session will be conducted in accordance with Attachment C2 or as otherwise agreed by you and the respondent;
- the complaint is referred to a hearings tribunal under **Step 5**, the hearing will be conducted in accordance with Attachment C4;
- the complaint is referred to the police or other appropriate authority under **Step 5**, the SDFSA will use its best endeavours to provide all reasonable assistance lawfully required by the police or other appropriate authority; and
- interim administrative or other arrangements are implemented under **Step 5**, the SDFSA will periodically review these arrangements to ensure that they are effective.

## Step 7

If, under **Step 6**, an informal or formal mediation session is conducted, and you and the respondent(s) can not reach a mutually acceptable mediated solution to the complaint, you may request that SDFSA Executive reconsider the complaint in accordance with **Step 5**.

You or the respondent(s) may be entitled to appeal where:

under **Step 5**, a decision was made by the SDFSA Executive

- not to take any action; or
- to take disciplinary action; or

• under **Step 6**, a decision was made by SDFSA Executive or the Tribunal or a hearings tribunal:

- not to take any action; or
- to take disciplinary action.

The grounds for appeal and the process for appeals under this Policy are set out in Attachment C4.

## Step 8

The investigating officers will document the complaint, the process followed and the outcome. This document will be stored in a confidential and secure place.

## Attachment C2: MEDIATION

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Mediation is a process by which people who are in conflict can be helped to communicate with each other about what is important for them and how to make decisions about resolving their dispute. Mediators provide a supportive atmosphere and method of talking to one another, to assist in sorting out the issues, coming up with acceptable solutions and making mutually satisfactory agreements.

This attachment outlines the general procedure of mediation that will be followed by the SDFSFA.

1. The people involved in a formal complaint (complainant and respondent(s)) may work out their own resolution of the complaint or seek the assistance of a neutral third person or a mediator. Mediation may occur either before or after an investigation of the complaint.
2. Mediation (getting those involved to come to a joint agreement about how the complaint should be resolved) will only be recommended:
  - a. After the complainant and respondent have had their chance to tell their version of events to the MPIO or a member of the SDFSFA Executive on their own; *and*
  - b. If the MPIO or a member of the SDFSFA Executive does not believe that any of the allegations warrant any form of disciplinary action - proven serious allegations will not be mediated, no matter what the complainant desires; and
  - c. Mediation looks like it will work (i.e. the versions given by the complainant and respondent tally or almost tally and/or at the very least, it looks as though it will be possible for each party to understand the other party's point of view).
3. Mediation will **not** be recommended if:
  - a. The respondent has a completely different version of the events and they won't deviate from these;
  - b. The complainant or respondent are unwilling to attempt mediation; or
  - c. Due to the nature of the complaint, the relationship between you and the respondent(s) and any other relevant factors, the complaint is not suitable for mediation.
4. If mediation is chosen to try and resolve the complaint, the MPIO or a member of the SDFSFA Executive will, under the direction(s) of the SDFSFA Executive and in consultation with the complainant and the respondent(s), arrange for a mediator to mediate the complaint.
5. The MPIO or a member of the SDFSFA Executive will notify the respondent(s) that a formal complaint has been made, provide the mediator with details of the complaint and notify them the SDFSFA has decided to refer the matter to mediation to resolve the complaint.
6. The mediator's role is to assist the complainant and respondent(s) reach an agreement on how to resolve the problem. The mediator, in consultation with the complainant and respondent(s), will choose the procedures to be followed during the mediation. At a minimum, an agenda of issues for discussion will be prepared by the mediator.
7. The mediation will be conducted confidentially and without prejudice to the rights of the complainant and the respondent(s) to pursue an alternative process if the complaint is not resolved.
8. At the end of a successful mediation the mediator will prepare a document that sets out the agreement reached between the complainant and respondent(s) and it will be signed by them as their agreement.

9. If the formal complaint is not resolved by mediation, the complainant may write to the SDFSA Executive to request that the Executive or the person/s appointed to investigate the matter, reconsider the complaint in accordance with **Step 5**.

### **Attachment C3: INVESTIGATION PROCESS**

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If an investigation needs to be conducted the following steps are to be followed:

1. A written brief will be provided to the investigator/s to ensure the terms of engagement and scope of the investigator's role and responsibilities are clear.
2. The complainant will be interviewed and the complaint documented in writing.
3. The details of the complaint will be conveyed to the person/people complained about (respondent(s)) in full. The respondent(s) must be given sufficient information to enable them to properly respond to the complaint.
4. The respondent(s) will be interviewed and given the opportunity to respond. The respondent(s) response to the complaint will be documented in writing.
5. If there is a dispute over the facts, then statements from witnesses and other relevant evidence will be obtained to assist in a determination.
6. The investigator will make a finding as to whether the complaint is:
  - substantiated (there is sufficient evidence to support the complaint);
  - inconclusive (there is insufficient evidence either way);
  - unsubstantiated (there is sufficient evidence to show that the complaint is unfounded); and/or
  - mischievous, vexatious or knowingly untrue.
7. A report documenting the complaint, investigation process, evidence, finding and, if requested, recommendations, will be given to the SDFSA Executive.
8. A report documenting the complaint and summarising the investigation process and key points that were found to be substantiated, inconclusive, unsubstantiated and/or mischievous will be provided to the complainant and the respondent(s).
9. Both the complainant and the respondent(s) are entitled to support throughout this process from their chosen support person/adviser (e.g. the MPIO or other person).
10. The complainant and the respondent(s) may have the right to appeal against any decision based on the investigation. Information on our appeals process is in Attachment C4.

## **1.1. Attachment C4: HEARINGS & APPEALS TRIBUNAL PROCEDURE**

- The following Tribunal Hearing Procedure will be followed by hearings tribunals established by the SDFSA.
  1. A Tribunal Panel will be constituted by the SDFSA Executive to hear a complaint that has been referred to them.
  2. The SDFSA Executive will organise for a Tribunal to be convened by notifying Tribunal Panel members that they are required to hear a complaint. The Tribunal Panel members will be provided with a copy of all the relevant correspondence, reports or information received relating to the complaint/allegations.
  3. The Tribunal Hearing will be scheduled as soon as practicable, but must allow adequate time for the person being complained about (respondent(s)) to prepare to respond to the complaint.
  4. The number of Tribunal Panel members required to be present throughout the Tribunal Hearing Process will be a majority of Tribunal Panel members.
    - 4.1 The Tribunal Panel will not include any person who has any actual or perceived conflict of interest, preconceived opinions, vested interests or personal involvement relating to the complaint.
    - 4.2 The Tribunal Panel will comprise at least one person who has knowledge, and preferably experience, of any relevant laws relating to the complaint (e.g. anti-harassment).
    - 4.3 If a member of the Tribunal Panel cannot continue once the Tribunal Hearing has commenced, and the minimum number required for the Tribunal Hearing is still maintained, the discontinuing member will not be replaced.
    - 4.4 If the specific or minimum number is not maintained, the discontinuing member may be replaced if it is considered appropriate by the Tribunal Chairperson. Factors to consider should include the circumstances of the complaint and the ability of the new Tribunal Panel member to be reasonably and impartially informed of the hearing evidence up until the time of their appointment. If the Tribunal Chairperson believes it is not appropriate for a new Tribunal Panel member to be appointed then the Tribunal will be rescheduled to a later date. The Tribunal Chairperson will inform the SDFSA Executive of the need to reschedule, and the SDFSA Executive will organise for the Tribunal Hearing, with a new Tribunal Panel to be reconvened.
  5. The SDFSA Executive will inform the respondent(s) by written notification at least one calendar month that a tribunal hearing will take place. The written notification will outline:
    - That the person has a right to appear at the tribunal hearing to defend the complaint/allegation;
    - Details of the complaint, including any relevant rules or regulations they are accused of breaching (if there is more than one complaint these should be set out separately);
    - The date, time and venue of the tribunal hearing;
    - That they can make either verbal or written submissions to the Tribunal;
    - That they may arrange for witnesses to attend the Tribunal in support of their position;
    - An outline of any possible penalties that may be imposed if the complaint is found to be true; and
    - That legal representation will not be allowed.

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

The respondent(s) will be allowed to participate in all SDFSA activities and events, pending the decision of the Tribunal, including any available appeal process, unless the SDFSA Executive believes it is warranted to exclude the respondent(s) from all or some SDFSA activities and events, after considering the nature of the complaint.

6. The SDFSA Executive will inform the person making the complaint (complainant) by written notification at least one calendar month that a tribunal hearing will take place. The written notification will outline:
  - That the person has a right to appear at the tribunal hearing to support their complaint;
  - Details of the complaint, including any relevant rules or regulations they are accused of breaching (if there is more than one complaint these should be set out separately);
  - The date, time and venue of the tribunal hearing;
  - That they can make either verbal or written submissions to the Tribunal;
  - That they may arrange for witnesses to attend the Tribunal in support of their position; and
  - That legal representation will not be allowed.

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

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

### **Tribunal Hearing Procedure**

8. The following people will be allowed to attend the Tribunal Hearing:
  - The Tribunal Panel members;
  - The respondent(s);
  - The complainant;
  - Any witnesses called by the respondent;
  - Any witnesses called by the complainant;
  - Any parent / guardian or support person required to support the respondent or the complainant.
9. The Tribunal Chairperson will call the hearing to order at the designated time and determine if the respondent(s) is present.
10. If the respondent(s) is not present and the Tribunal Chairperson considers that no valid reason has been presented for their absence, the Tribunal Hearing will continue subject to the Tribunal Chairperson being satisfied that all Tribunal notification requirements have been carried out correctly.
11. If the Tribunal Chairperson considers that a valid reason for the non-attendance of the respondent(s) is presented, or the Tribunal Chairperson does not believe the Tribunal notification requirements have been carried out correctly, then the Tribunal Hearing will be rescheduled to a later date.
12. The Tribunal Chairperson will inform the SDFSA Executive of the need to reschedule, and the SDFSA Executive will organise for the Tribunal Hearing to be reconvened.
13. The Tribunal Chairperson will read out the complaint that is to be judged, ask the respondent(s) if they understand the complaint being made against them, and if they agree or disagree with the complaint.
14. If the person agrees with the complaint, they will be asked to provide any evidence or witnesses that should be considered by the Tribunal Panel when determining any disciplinary measures.
15. If the person disagrees with the complaint, the complainant will be asked to describe the circumstances that lead to the complaint being made.
  - Brief notes may be referred to.
  - The complainant will be allowed to call witnesses.
  - The respondent(s) may be allowed to question the complainant and their witnesses.

16. The respondent(s) will then be asked to respond to the complaint.
  - Brief notes may be referred to.
  - The respondent will be allowed to call witnesses.
  - The complainant may be allowed to ask questions of the respondent and their witnesses.
17. Both the complainant and respondent will be allowed to be present when evidence is presented to the Tribunal. Witnesses may be asked to wait outside the Tribunal Hearing until required.
18. The Tribunal will be allowed to:
  - consider any evidence, and in any form, that it deems relevant.
  - question any person giving evidence.
  - limit the number of witnesses presented if it is agreed by all parties that they will support the person who requested them, but will not provide any new evidence.
19. Video evidence, if available, may be presented. The arrangements must be made entirely by the person/s wishing to offer this type of evidence.
20. If the Tribunal considers that at any time during the Tribunal Hearing that there is any unreasonable or intimidatory behaviour from anyone allowed to be present, the Tribunal Chairperson shall have the power to stop any further involvement of the person in the Tribunal Hearing.
21. After all of the evidence has been presented the Tribunal Panel will make its decision in private. If the Tribunal believes the complaint has been substantiated on the balance of probabilities (i.e. more probable than not), the respondent will then be given an opportunity to address the Tribunal Panel and make a submission on any disciplinary measures that may be imposed. Only those disciplinary measures outlined in the SDFSA's Member Protection Policy Attachment 5 will be considered. Any disciplinary measure imposed must be reasonable in the circumstances.
22. All decisions made by the Tribunal will be based on a majority vote.
23. The Tribunal Chairperson will announce the decision in the presence of all those involved in the hearing and will declare the hearing closed.
24. Within 48 hours, the Tribunal Chairperson will:
  - 24.1 Forward to the SDFSA Executive a copy of the tribunal decision including any disciplinary measures imposed.
  - 24.2 Forward a letter to the respondent(s) reconfirming the Tribunal's decision and any disciplinary measures imposed. The letter should also outline, if allowed, the process and grounds for an appeal to be made.

### **Appeals Procedure**

25. A complainant or a respondent(s) who is not satisfied with a decision described in **Step 7** of the Complaints Procedures can lodge one appeal to the SDFSA Executive on one or more of the following bases:
  - 25.1 That a denial of natural justice has occurred; or
  - 25.2 That the disciplinary measure(s) imposed is unjust and/or unreasonable.
26. A person wanting to appeal in accordance with paragraph 25 must lodge a letter stating their intention and the basis for their appeal with the SDFSA Executive within 14 days of the relevant decision.
27. If the letter of appeal is not received by the SDFSA Executive within the relevant time period the right of appeal will lapse.

28. Upon receipt of the letter of appeal, the SDFSA Executive must convene a special meeting of the Executive Committee to review the letter of appeal and decide whether there are sufficient grounds for the appeal to proceed. The SDFSA Executive Committee will be able to invite any witnesses to the meeting it believes are required to make an informed decision.
29. If it is considered that the letter of appeal has not shown sufficient grounds for appeal in accordance with paragraph 25, then the appeal will not proceed and the person will be notified of this decision and the reasons for this decision.
30. If the appeal is considered to have sufficient grounds to proceed then a Tribunal with a new panel will be convened to rehear the complaint. The SDFSA Executive shall follow the Tribunal Formation and Notification procedures outlined above.
31. The Tribunal Hearing Procedure shall be followed for the appeal.
32. The decision of the appeal Tribunal will be final.

## **Attachment C5: DISCIPLINARY MEASURES**

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Any disciplinary measure imposed by SDFSA Tribunal or SDFSA Executive under this policy must:

- Observe any contractual and employment rules and requirements;
- Conform to the principles of natural justice;
- Be fair and reasonable;
- Be based on the evidence and information presented;
- Be within the powers of the SDFSA to impose the disciplinary measure.

### **Individual**

Subject to contractual and employment requirements, if a finding is made that an individual has breached the SDFSA's Member Protection Policy (including the Codes of Conduct), one or more of the following forms of discipline may be imposed by the SDFSA Tribunal or the SDFSA Executive.

1. A direction that the individual make a verbal and/or written apology;
2. A written warning;
3. A direction that the individual attend counselling to address their behaviour;
4. A withdrawal of any awards, placings, records, achievements bestowed in any tournaments, activities or events held or sanctioned by the SDFSA;
5. A demotion or transfer of the individual to another location, role or activity;
6. A suspension of the individual's membership or participation or engagement in a role or activity;
7. Termination of the individual's membership, appointment or engagement; and
8. Any other form of discipline that the SDFSA Tribunal or the SDFSA Executive considers appropriate.

When imposing any form of discipline, it will be accompanied by a warning that a similar breach of policy by that individual in the future may result in the imposition of a more serious form of discipline.

### **Organisations**

If a finding is made that an SDFSA member or affiliated organisation has breached the SDFSA's Member Protection Policy (including the Codes of Conduct), one or more of the following forms of discipline may be imposed by the SDFSA Tribunal or the SDFSA Executive.

1. A written warning;
2. A monetary fine;
3. 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;
4. A direction that the SDFSA cease to sanction events held by or under the auspices of that organisation;
5. That its membership of the SDFSA be suspended or terminated; and/or
6. Any other form of discipline that the SDFSA Tribunal or the SDFSA Executive considers to be appropriate.
7. In the event of an appeal under SDFSA's Constitution 5.4 Expulsion of a Member Clause (d) the appellant's membership of the SDFSA shall not be terminated unless the determination of the SDFSA Tribunal or SDFSA Executive to expel the member is upheld by the members of the SDFSA in a general meeting after the appellant has been heard by the members of the SDFSA and in such event, membership will be terminated at the date of the general meeting at which the determination of the Executive is upheld.

When imposing any form of discipline, it will be accompanied by a warning that a similar breach of policy by the organisation in the future may result in more serious form of discipline.

### **Factors to consider when imposing discipline**

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

- Nature and seriousness of the behaviour or incidents;
- In a case where action is taken concurrently with or in lieu of a resolution of a formal complaint, the wishes of the complainant;
- If the individual concerned knew or should have known that the behaviour was a breach of the policy;
- Level of contrition of the respondent(s);
- The effect of the proposed disciplinary measures on the respondent(s) including any personal, professional or financial consequences;
- If there have been relevant prior warnings or disciplinary action; and/or
- If there are any mitigating circumstances such that the respondent(s) shouldn't be disciplined at all or not disciplined so seriously.

## **PART D: ROLE- CODES OF CONDUCT**

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### **Attachment D1: Official Code of Conduct of the SDFSA**

The SDFSA's code of conduct is intended to be the minimum standard for anyone involved with the SDFSA.

- operate within the rules and spirit of our sport.
- encourage and support opportunities for people to learn appropriate behaviours and skills
- support opportunities for participation in all aspects of the sport
- treat each person as an individual
- display control and courtesy to all involved with the sport
- respect the rights and worth of every person regardless of their gender, ability, cultural background or religion
- respect the decisions of officials and administrators in the conduct of the sport
- adopt appropriate and responsible behaviour in all interactions
- adopt responsible behaviour in relation to alcohol and other drugs
- act with integrity and objectivity, and accept responsibility for your decisions and actions
- ensure your decisions and actions contribute to a safe environment
- ensure your decisions and actions contribute to a harassment free environment
- do not tolerate harmful or abusive behaviours
- place the safety and welfare of the athletes above all else
- help each person reach their potential - respect the talent, developmental stage and goals of each person and compliment and encourage with positive and supportive feedback
- be honest and do not allow your qualifications to be misrepresented
- place the safety and welfare of others above all else
- be consistent and impartial when making decisions
- address unsporting behaviour and promote respect for all people
- act honestly, in good faith and in the best interests of the sport as a whole
- ensure that any information acquired or advantage gained from the position is not used improperly
- conduct your responsibilities with due care, competence and diligence
- do not allow prejudice, conflict of interest or bias to affect your objectivity

## **PART E: REPORTING DOCUMENTS/FORMS**

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TO ASSIST IN CONSISTENCY AND ACCURACY IN FOLLOWING PROCEDURE AND REPORTING ON THE ISSUES COVERED BY THE SDFSA'S MEMBER PROTECTION POLICY, THE FOLLOWING DOCUMENTS ARE TO BE USED:

**E1 CONFIDENTIAL RECORD OF INFORMAL COMPLAINT – TO BE USED BY MPIOs OR OTHERS WHO RECEIVE A COMPLAINT OR ALLEGATION**

**E2 CONFIDENTIAL RECORD OF FORMAL COMPLAINT – TO BE USED WHEN A FORMAL COMPLAINT IS RECEIVED BY THE SDFSA**

**E3 RECORD OF MEDIATION – TO BE USED BY THOSE WHO CONDUCT A MEDIATION**

### **E4 RECORD OF TRIBUNAL DECISION**

#### **General principles to be followed when completing a report of a complaint:**

- Treat all complaints seriously.
- Deal with complaints promptly, sensitively and confidentially.
- Maintain a calm attitude.
- Ask the complainant if they will consent to you taking notes.
- Write the description of the complaint /problem using the complainants own words (as much as is possible).
- Find out the nature of the relationship between the complainant and the person complained about (for example, coach/competitor, team members, etc) and if there is any relevant history.
- Take a note of the facts and do not pre-judge the situation.
- Ask the complainant whether they fear victimisation or other consequences.
- Find out what outcome the complainant wants and if they need any support.
- Ask the complainant how they want the complaint to be dealt with under the policy.
- Keep the complaint confidential and do not disclose it to another person without the complainant's consent except if disclosure is required by law (for example, a report to government authorities) or if disclosure is necessary to effectively deal with the complaint.

**ATTACHMENT E1: CONFIDENTIAL RECORD OF INFORMAL COMPLAINT**

MPIO's Name	Date: / /
Complainant's Name	<input type="checkbox"/> Over 18 <input type="checkbox"/> Under 18
Role/status in <i>activity</i>	<input type="checkbox"/> Administrator (volunteer) <input type="checkbox"/> Parent <input type="checkbox"/> Participant <input type="checkbox"/> Spectator <input type="checkbox"/> Leader <input type="checkbox"/> Support Person <input type="checkbox"/> Club Committee member (club) <input type="checkbox"/> Official (description) ..... <input type="checkbox"/> Other (description) .....
Location/event of alleged issue	
Facts as stated by complainant	
Nature of complaint (category/basis/grounds)  Can tick more than one box	<input type="checkbox"/> Harassment      or <input type="checkbox"/> Discrimination <input type="checkbox"/> Sexual/sexist <input type="checkbox"/> Selection dispute <input type="checkbox"/> Sexuality <input type="checkbox"/> Personality clash <input type="checkbox"/> Race <input type="checkbox"/> Bullying <input type="checkbox"/> Religion <input type="checkbox"/> Verbal abuse <input type="checkbox"/> Pregnancy <input type="checkbox"/> Physical abuse <input type="checkbox"/> Disability <input type="checkbox"/> Victimisation <input type="checkbox"/> Child Abuse <input type="checkbox"/> Other .....
Feelings expressed by complainant (completing this may help to separate emotional content from facts)	

What they want to happen to fix issue	
What information I provided	
What they are going to do now	

This record and any notes must be kept in a confidential place – do not enter it on a computer system. If the issue becomes a formal complaint, this record is to be sent to the SDFSA Executive.

**Attachment E2: CONFIDENTIAL RECORD OF FORMAL COMPLAINT**

Complainant's Name	<input type="checkbox"/> Over 18 <input type="checkbox"/> Under 18	Date Formal Complaint Received:    /    /
Role/status in activity	<input type="checkbox"/> Administrator (volunteer) <input type="checkbox"/> Parent <input type="checkbox"/> Participant <input type="checkbox"/> Spectator <input type="checkbox"/> Leader <input type="checkbox"/> Support Person <input type="checkbox"/> Club Committee member (club) <input type="checkbox"/> Official (description) ..... <input type="checkbox"/> Other (description).....	
Name of person complained about	<input type="checkbox"/> Over 18 <input type="checkbox"/> Under 18	
Role/status in activity	<input type="checkbox"/> Administrator (volunteer) <input type="checkbox"/> Parent <input type="checkbox"/> Participant <input type="checkbox"/> Spectator <input type="checkbox"/> Leader <input type="checkbox"/> Support Person <input type="checkbox"/> Club Committee member (club) <input type="checkbox"/> Official (description) ..... <input type="checkbox"/> Other (description).....	
Location/event of alleged issue		
Description of alleged issue		
Nature of complaint (basis/grounds/category) Can tick more than one box	<input type="checkbox"/> Harassment                      or <input type="checkbox"/> Discrimination <input type="checkbox"/> Sexual/sexist <input type="checkbox"/> Selection dispute <input type="checkbox"/> Sexuality <input type="checkbox"/> Personality clash <input type="checkbox"/> Race <input type="checkbox"/> Bullying <input type="checkbox"/> Religion <input type="checkbox"/> Verbal abuse <input type="checkbox"/> Pregnancy <input type="checkbox"/> Physical abuse <input type="checkbox"/> Disability <input type="checkbox"/> Victimisation <input type="checkbox"/> Child Abuse <input type="checkbox"/> Other .....	
Methods (if any) of attempted informal resolution		

Support person (if any)	
Formal resolution procedures followed (outline)	
If investigated: Finding -	
If went to hearing tribunal: Decision -  Action recommended -	
If mediated: Date of mediation - Were both parties present - Terms of Agreement -  Any other action taken -	
If went to appeals tribunal: 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 in SDFSA Signature: / /
Signed by:	Complainant:  Respondent:

<p>This record and any notes must be kept in a confidential place. If the complaint is of a serious nature, or is escalated to and/or dealt with at the national level, the original must be forwarded to the national body and a copy kept at the club/state/district level (whatever level the complaint was made). CEO contacted</p>	<p>Who: When:</p>
<p>Police and/or government agency investigation</p>	<p>Finding:</p>
<p>Internal investigation (if any)</p>	<p>Finding:</p>
<p>Action taken</p>	
<p>Completed by</p>	<p>Name: Position in SDFSA Signature: / /</p>
<p>Signed by</p>	<p>Complainant (if not a child)</p>

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

**Attachment E3: RECORD OF MEDIATION**

Present at Mediation	
Date of mediation	
Venue of mediation	
Mediator	
Summary of mediation (minutes attached)	
Outcome of mediation	
Follow-up to occur (if required)	
Completed by: (signature)	
Signed by: Complainant (signature)  Respondent (signature)	

**Attachment E4: RECORD OF TRIBUNAL DECISION**

Complainant's Name		Date Formal Complaint Received: / /
Role/status in activity	<input type="checkbox"/> Administrator (volunteer) <input type="checkbox"/> Participant <input type="checkbox"/> Leader <input type="checkbox"/> Club Committee member (club) <input type="checkbox"/> Official (description) .....	<input type="checkbox"/> Parent <input type="checkbox"/> Spectator <input type="checkbox"/> Support Person
Name of person complained about		
Role/status in [sport]	<input type="checkbox"/> Administrator (volunteer) <input type="checkbox"/> Participant <input type="checkbox"/> Leader <input type="checkbox"/> Club Committee member (club) <input type="checkbox"/> Official (description) .....	<input type="checkbox"/> Parent <input type="checkbox"/> Spectator <input type="checkbox"/> Support Person
Location/event of alleged issue		
Description of alleged issue		
Nature of complaint (basis/grounds/category)	<input type="checkbox"/> Harassment      or <input type="checkbox"/> Discrimination <input type="checkbox"/> Sexual/sexist <input type="checkbox"/> Selection dispute <input type="checkbox"/> Sexuality <input type="checkbox"/> Personality clash <input type="checkbox"/> Race <input type="checkbox"/> Bullying <input type="checkbox"/> Religion <input type="checkbox"/> Verbal abuse <input type="checkbox"/> Pregnancy <input type="checkbox"/> Physical abuse <input type="checkbox"/> Disability <input type="checkbox"/> Victimisation <input type="checkbox"/> Child Abuse <input type="checkbox"/> Other .....	
Methods (if any) of attempted informal resolution		
Support person (if any)		
Tribunal Members		
Tribunal Hearing Date and venue		

Tribunal Decision (attach report)	
Action recommended and any follow up report required	
Decision Appealed Date of Appeal lodged	
Appeal Hearing Date	
Appeal Decision (attach report)	
Action Recommended	
Completed by	Name: Position in SDFSA Signature: / /
Signed by:	Complainant Respondent