



Australian Pipe Band Association Inc

Member Protection Policy

Policy & Procedures for Harassment, Discrimination & Abuse

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for NSW, by APBA
NSW Branch

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PART A

1. Statement of Commitment

- 1.1 Australian Pipe Band Association Inc, Branches and Affiliated bands/groups are committed to providing an environment that is free of all forms of harassment, discrimination, abuse and inappropriate behaviour.
- 1.2 The Member Protection Policy aims to provide an environment for its members, service providers, volunteers and employees that will enable the Australian Pipe Band Association Inc to achieve its goals, conduct its programs and fulfil its responsibilities.

2. Objective

- 2.1 An objective of the Australian Pipe Band Association Inc is to educate its members and parties associated with its members and bands about this policy and its commitment to it.
- 2.2 The Australian Pipe Band Association Inc encourages its members to identify instances of harassment where it occurs, and to utilise the developed procedures to eliminate and reduce future reoccurrence.

3. Code of Conduct

3.1 General Responsibilities

APBA Inc expects members and people associated with pipe bands to abide by this code of conduct.

- 3.1.1 In respect to harassment, discrimination, abuse and inappropriate behaviour its members will
- 3.1.2 abide by the rules and policies of the APBA Inc.
- 3.1.3 not engage in behaviour that may be considered of an embarrassing, discriminating or harassing nature.
- 3.1.4 be professional in their approach and responsible for their actions.
- 3.1.5 be committed to what they agree to.
- 3.1.6 respect the rights and privacy of others
- 3.1.7 report breaches of the APBA Inc member protection policy to the appropriate authority.
- 3.1.8 not disclose to any unauthorised person/organisation, information of a confidential nature concerning members of the APBA Inc.
- 3.1.9 ensure under aged members are supervised and not exposed to situations of harassment, abuse and inappropriate behaviour.

3.2 An APBA Inc Office Bearer/Councillor

- 3.2.1 An Office Bearer/Councillor will
- 3.2.2 Abide by the code of conduct
- 3.2.3 Set an example for others
- 3.2.4 be professional in their actions, manner presentation, language and be above reproach.
- 3.2.5 Maintain strict impartiality
- 3.2.6 Resolve complaints and disputes according to defined procedures in a timely manner.
- 3.2.7 Be a positive role model for others
- 3.2.8 ensure members in their control are made aware of the Code of Conduct.
- 3.2.9 exercise a duty of care

3.3 Registered player/member

- 3.3.1 A registered player/member will
- 3.3.2 Treat officials with respect.
- 3.3.3 Respect the rights of others even if they are not members.
- 3.3.4 Be aware of what is meant by harassment, abuse and discrimination.
- 3.3.5 Report breaches of the Code of Conduct.
- 3.3.6 Refrain from behaviour that may be considered offensive.

4. Child Protection

- 4.1 The Australian Pipe Band Association Inc is committed to ensuring that the safety, welfare and well being of children is maintained at all times during their participation in activities run by members and service providers. The Australian Pipe Band Association Inc aims to promote a safe environment to children and to assist members and service providers to recognise, report and prevent child abuse. (Appendix 3, 4 and 6)
- 4.2 Any person involved in the instruction, leadership, management and/or coaching of any member(s) under the age of 18 years may be asked to undergo (police) screening procedures.
- 4.3 The Australian Pipe Band Association Inc will deal with allegations involving abuse, suspected abuse of children promptly, sensitively and in accordance with this policy. (Appendix 6)

5. Disciplinary Action

- 5.1 Any member who breaches this Member Protection Policy will be liable for disciplinary action.
- 5.2 Action taken will depend on the severity of the case.

6. Confidentiality

- 6.1 Names and details of any case of harassment, abuse or discrimination will be kept confidential by the management and officers of the APBA Inc Branch.

7. Investigation

- 7.1 The APBA Inc Branch reserves the right to investigate any case that comes to its attention, and to consider and take appropriate action it determines as necessary.

8. Policy Review and Approval

- 8.1 The member protection policy will be reviewed annually by the member protection officer of the Branch.
- 8.2 Any proposed changes will be referred to the Branch Executive.

9. Resources

- 9.1 Resources used in the preparation of this policy include
 - Australian Sports Commission www.ausport.gov.au
 - Office for Recreation & Sport www.recsport.sa.gov.au
 - Play By The Rules www.playbytherules.net.au
 - Central Districts Softball Association

PART B

PROCEDURES FOR HANDLING CLAIMS OF HARASSMENT & DISCRIMINATION

<p>GENERAL COMPLAINT PROCEDURES</p>	<p>In the event that a complaint is made, the following options should be considered.</p> <ul style="list-style-type: none"> • Does the complainant intend handling the matter on their own and in their own way. • Does the complainant want to seek support and direction by referring the matter to either <ul style="list-style-type: none"> - The Drum Major, Pipe Major or Drum Sergeant. - A person appointed by the band/group as a harassment officer - A member of band executive. <p>If the matter is to proceed further</p> <ul style="list-style-type: none"> • A formal complaint in writing is required to be referred to a member protection officer (appointed by the APBA Inc Branch) to investigate and determine the appropriate course of action. • This may involve a full investigation of the complaint or • Referral to the APBA Inc Branch executive • A member protection officer's role is to determine whether discrimination or harassment has occurred and to;
<p>SPECIFIC COMPLAINT PROCEDURES</p>	<ul style="list-style-type: none"> • Treat the matter seriously • Action the matter quickly and efficiently • Confront the harasser and interview the parties involved. • Prepare concise records of the event(s) • Keep the matter confidential. • Only discuss the matter with people authorised by the complainant. • Attempt to resolve the matter. <p>If the member protection officer is unable to resolve the matter, it will be referred to the Branch Executive to review all aspects of the case and to determine an appropriate course of action.</p>
<p>EXTERNAL ACTION</p>	<p>If the complaint is unable to be resolved within the band/group, the APBA Inc Branch, the complainant may choose to refer the written complaint to the APBA Inc or an external agency such as the Equal Opportunity Commission in your state to enable a resolution to be achieved.</p> <p>It is acknowledged that a complaint may at any time be put in writing and pursued with an external body for mediation. These may be</p> <ul style="list-style-type: none"> • APBA Inc • APBA IncBranch • Equal Opportunity Commission in your state.

PART C
PROCEDURES FOR HANDLING ALLEGATIONS OF CHILD ABUSE

<p>GENERAL PROCEDURES</p>	<p>Where allegations are made regarding child abuse or someone suspects a child has been abused, the person receiving the information must treat the matter with great sensitivity. The initial response of the person to whom the child confides is crucial to the well being of the child. It is important for the person receiving information to:</p> <p>If there is any doubt about whether the allegation should be reported, a relevant state authority (for example, police or a family services agency) should be consulted. However, if the person receiving the information on the allegation is a member of a profession required, or ‘mandated’, to report any suspected child abuse, then he or she must report it to the appropriate authorities.</p> <p>The alleged offender may be suspended pending the results of an investigation by the relevant authority.</p> <p>Where a member of the APBA Inc has been permanently suspended from a band, committee or council because it was found that he or she abused a child, the band or branch must inform the APBA Inc so it can decide whether that person has breached the Code of Conduct and should therefore have membership terminated.</p> <p>Where a matter has resulted in the suspension or dismissal of a tutor, official or band member, the APBA Inc should be informed so that it can implement safeguards to prevent other bands/groups from engaging the services of the offender. Care should be taken with the way this is communicated to other branches/groups/bands to ensure that any statements made are not defamatory.</p> <p>A tutor, official or band member may suspect that a child has been abused by a family member or someone outside the APBA Inc because of behavioural signs or comments by the child. In such instances, advice should be sought from a child protection agency if the information presented is inconclusive. If there are enough reasons to suspect child abuse, the matter should be formally reported to the appropriate child protection agency for investigation.</p>
<p>SPECIFIC PROCEDURES</p>	<ul style="list-style-type: none"> • listen to and believe what the child says; • reassure the child that what has occurred is not the fault of the child; • ensure the child is safe; • be honest with the child and explain that other people may need to be told in order to stop what is happening; • ensure that what the child says is quite clear, but do not elicit detailed information about the sexual abuse; • obtain and document the following information; <ul style="list-style-type: none"> - the child’s name, age and address - the person’s reason for suspecting abuse (that is, observation, injury or information - the person’s assessment of danger posed to the child, including information relating to the alleged perpetrator - what arrangements, if any, exist for the immediate protection of the child - what involvement, if any, other agencies have in dealing with the suspected incident; • make direct and confidential contact with the Member Protection Officer appointed to address member protection, harassment and abuse issues. • Consult with the officer on how to proceed (for example, reporting to the relevant state authority) and how to make a confidential and factual written report; and <p>ensure that there are procedures in place to protect the confidentiality of reports (paper and electronic versions).</p>

REPORTING	<p>The Australian Pipe Band Association and its members will deal with allegations involving the abuse, or suspected abuse, of children in a strictly confidential manner and with sensitivity. This is in the best interests of all parties involved. The matter should only be discussed within the APBA with the Member Protection Officer who has been appointed and trained to address harassment and abuse issues.</p> <p>In most instances, the matter will have to be referred to the police or a family services authority. The person receiving the information or the allegation should consult these agencies if there is any doubt about whether an allegation should be reported. In such instances, it is not the responsibility of the organisation to investigate the allegation. This should only be handled by the appropriate authorities (for example, the state child protection agency or police). Where the organisation needs to make some inquiries to establish the basic facts, please follow the procedure on page 6 of Part C.</p>
REASONABLE GROUNDS TO SUSPECT CHILD ABUSE	<p>A member of the APBA Inc may suspect abuse of a child on reasonable grounds when:</p> <ul style="list-style-type: none"> • a child tells them they have been abused; • someone else tells them a child has been abused; • a child tells them they know someone who has been abused (often they are referring to themselves); • they observe a child’s behaviour and/or injuries, and their knowledge of children leads them to suspect abuse; or <p>they observe a member’s abuse of another member.</p>
TYPES OF ALLEGATIONS	<p>A member the APBA Inc or the APBA Council or Committee itself may also receive allegations that:</p> <ol style="list-style-type: none"> 1. a person in the APBA Inc (for example, a member of the child’s band) has abused a child within the APBA Inc; 2. a person in the APBA Inc (for example, a member of a band or official of the APBA) has abused a child outside APBA Inc’s jurisdiction 3. a person outside the organisation (for example, a teacher or family member) has abused a young member of the organisation. <p>These allegations may be made by the child, his or her parents, or another person involved in the APBA Inc. Where the allegation comes from is not as important as who the alleged offender and alleged victim are.</p> <p>Allegations of types 1 and 2 will generally be the only ones about which the organisation may have the right to make further inquiries in accordance with the rules and regulations.</p> <p>An allegation of type 3 should, in all cases, simply be reported to the relevant authority and the organisation should consider any steps it can reasonably take to prevent that abuse, or similar incidents, occurring again.</p>

GUIDELINES

These guidelines are designed to give adult band personnel and individuals within the APBA support when working with and making decisions about children as learners or members of bands. Many of these guidelines will already be in practise among bands and in learner groups but some may be new. Remember that children are defined as persons 17 years old and under, even if they hold a responsible position in the band e.g. pipe sergeant, corporal, secretary, etc

BAND STRUCTURE	Bands are managed by adults with many bands having a high, if not totally adult membership. This means that the expectations and procedures operating within most bands have an adult focus, the exception being juvenile bands. Children playing in non-juvenile bands are operating in an adult environment where the expectations and procedures may not be appropriate or acceptable for their welfare within the definition of child protection.
AUTHORITY	<p>Parents/guardians have primary responsibility for the children with whom you are dealing and consideration must be given to their role in a child's life.</p> <ul style="list-style-type: none"> • When a child player joins the band or learners group discuss with the parents/guardians and child what playing the instrument requires, costs etc, your expectations as teacher or the expectations of players as members of the band so that they and the child can make an informed decision before continuing. • Discuss any issues with the parents/guardians as well as the child. It is unfair to place a child under duress for a situation over which he or she has no control. • Talk with the parent/guardian about the child's progress, performance and how they are fitting into the band from time to time, as this will allay any fears they may have and alert you to any potential difficulties.
CHILDREN AS LEARNERS	<ul style="list-style-type: none"> • When teaching children it is advisable to do so in a small group situation (children or adult/children learner group). If it is necessary to work with a child one to one make sure it is an area where you and the child can be seen/heard by others. • If there a need to touch a child during the tutoring process explain what you are doing, why you are doing it and check that the child is comfortable with it. Demonstrate what you want on yourself or another adult first as it may then not be necessary to touch the child at all. Make sure the touching is reasonable for the instruction.
CHILDREN AS MEMBERS OF A BAND	<p>Take into consideration pressure school places on the children with whom you are working and be prepared to adjust expectations of the child for things such as attendance at band practice or engagements.</p> <ul style="list-style-type: none"> • Have at least one trusted person to "chaperone" child players in the band on band engagements and that the child player stays with that person when not playing. • Consider the suitability of an engagement for the child members of your band and if necessary excuse them from it or make suitable arrangements for their welfare. • It is not a desirable place for child players to retire to the beer tent or a hotel bar after a contest or engagement even in the company of adult band members.
GENERAL	<ul style="list-style-type: none"> • Speak to children in a non-threatening and non-abusive manner at all times. • Telling crude or lewd stories and jokes to or in front of children is inappropriate as is some forms of swearing and they are child abuse. • Giving alcohol cigarettes or other drugs to children is not only illegal but is also child abuse. <p>These guideline will be reviewed from time to time to ensure the welfare of our child members.</p>

Source: Australian Sports Commission 'Protecting Children from Abuse in Sport 2000', pp 19 – 21

APPENDIX 1: DEFINITIONS

DISCRIMINATION	<p>In most states it is unlawful to treat anyone unfairly on the basis of race, sex, sexuality, pregnancy, intellectual or physical impairment, age, or marital status, in key areas of public life.</p> <p>Discrimination can be direct or indirect.</p>
DIRECT DISCRIMINATION	<p>Direct discrimination is treating a person less favourably than another person on the basis of race, sex, age, marital status, sexuality, pregnancy and intellectual or physical impairment in the same or similar circumstances</p> <p>Example: <i>A Branch states that it will only consider granting transfers for players to go to another band if they are over 21 years of age. This practice directly discriminates against players under the age of 21.</i></p>
INDIRECT DISCRIMINATION	<p>Indirect discrimination is imposing a requirement, condition or practice that is the same for everyone, but which has an <i>unequal</i> or <i>disproportionate</i> effect or result on particular groups. Unless this type of requirement is reasonable in all circumstances, it is likely to be indirect discrimination—even if there was never any intention to discriminate.</p>
VICTIMISATION	<p>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 right (under anti-discrimination laws) to make a complaint or support another person in making a complaint.</p> <p>Example: <i>A member of a band is threatened with non-renewal of membership after he/she states their intention to go to the Equal Opportunity Commission to lodge a complaint of sexual harassment.</i></p>
HARASSMENT	<p>Harassment can be unwelcome verbal or written comments, conduct, or gestures directed toward one or more people; the harasser knows or should reasonably be expected to know that this behaviour is insulting, intimidating, humiliating, malicious, degrading or offensive.</p> <p>Harassment is a form of unfair discrimination. It can be an offence under State and Federal anti-discrimination laws, and in some cases criminal law.</p> <p>Examples of harassment include:</p> <p><i>written, verbal or physical abuse or threats</i></p> <p><i>unwelcome physical contact,</i></p> <p><i>the display of offensive materials,</i></p> <p><i>unwelcome sexual comments, jokes and propositions,</i></p> <p><i>homophobic comments and/or behaviours</i></p> <p><i>jokes or comments directed at a person's body, looks, age, race, disability, sexuality, marital status, pregnancy</i></p> <p>Harassment may be a single incident or repeated. It may be explicit or implicit, verbal or non-verbal, and it may include promises or threats in return for sexual favours. Although the intent may vary, if it is unwelcome and the effect is to offend, humiliate or intimidate, then the behaviour must stop.</p> <p>Example: <i>A player of a band continually uses abusive language towards the same person from another band who they are competing against.</i></p> <p>Jokes and behaviours that are genuinely enjoyed and consented to by everyone present are not harassment. However, it is important to be aware that some people may silently tolerate behaviour they find offensive - especially if they hold a subordinate position relative to the group or individual engaging in the behaviour.</p>
SEXUAL HARASSMENT	<p>Sexual harassment is unwelcome sexual behaviour, which makes the victim feel offended, intimidated or humiliated—and it is reasonable in the circumstances to feel that way.</p> <p>Example: <i>Members of a band continue to taunt a fellow member about his homosexuality; even after it is clear that he finds the jokes offensive.</i></p>

DISABILITY	<p>Disability refers to the total or partial loss of any function or part of the body (for example, faulty vision, speech impediment or hearing loss); the malfunction of any part of the body; the malformation or disfigurement of any part of the body; the presence of an organism which may cause disease (for example, HIV, hepatitis); permanent or temporary loss or imperfect development of mental faculties (except where attributable to mental illness) resulting in reduced intellectual capacity; a disorder or malfunction that results in a person learning differently from others; a disorder, illness or disease that affects a person's thought processes, perception of reality, emotions of judgement or that results in disturbed behaviour.</p> <p>The term disability covers physical, intellectual and psychiatric conditions.</p> <p>The Equal Opportunity Act, 1984 (SA) uses the term impairment which is defined to exclude mental illness.</p>
RACE DISCRIMINATION	<p>The race of a person means the nationality, country or origin, colour or ancestry of the person or of any other person with whom he or she resides or associates.</p> <p>Racial discrimination involves a distinction, exclusion, restriction or preference based on race which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of any human right or fundamental freedom in the political, economic, social, cultural or any other field of public life.</p> <p>Example: <i>A player complained of being subjected to regular racist comments during practices and of not being selected for engagements despite his/her ability. He/she was told that their inclusion might lead to band disharmony.</i></p>
SEXUALITY	<p>Discrimination on the basis of sexuality means treating a person less favourably because of their heterosexuality, homosexuality, bisexuality or trans-sexuality.</p> <p>A person complains that he/she is not being selected when a band does an engagement because other members state they refuse to play with a homosexual.</p>
PREGNANCY	<p>Discriminating against a woman because she is pregnant is unlawful.</p>
AGE DISCRIMINATION	<p>Age discrimination means treating a person unfairly because of their age.</p> <p>Age discrimination often arises because of stereotypes and incorrect assumptions about people's abilities, based on how old or young they are. It can occur against people of any age, and deny them the opportunity for full participation.</p> <p>Exceptions may occur (see Appendix 2—Exceptions/Exemptions).</p>
INTIMATE RELATIONS	<p>Intimate sexual relationships between tutors and players—while not necessarily unlawful harassment—can have harmful effects on the player, on other players and tutors, and on the band's public image. Such relationships tend to be exploitative because there is usually a disparity between tutors and players in terms of authority, maturity, status and dependence.</p> <p>Because there is always a risk that the relative power of the tutor is a factor in the development of such relationships, tutors working at all levels should avoid such relationships.</p> <p>The law is always the minimum standard for behaviour; sex with a minor, for example, is a criminal offence.</p>

APPENDIX 2: EXCEPTIONS/EXEMPTIONS

Both State and Federal Equal Opportunity laws contain exceptions that allow certain kinds of lawful discrimination, for practical and commonsense reasons. Exemptions can be granted from the Equal Opportunity Act, to allow Associations to lawfully discriminate in certain circumstances. For more information about this, contact the Equal Opportunity Commission in your State/Territory.

Exceptions include:

DISABILITY	Organisers of a sporting activity may restrict the participation of people with a genuine or particular disability.
SEX	People of one sex may be excluded from participating in a competition/engagement in which the strength, stamina or physique of is relevant. This does not apply to an activity for children under the age of 12 years.
AGE	It is lawful to hold competitions for relevant age groups such as juvenile under 18. However, it is unlawful to select officials or tutors on the basis of age alone, if that person can effectively undertake the task.
PREGNANCY	<p>Anti discrimination laws around Australia have made discrimination on the ground of pregnancy unlawful and this includes participation in bands. It could therefore be unlawful for a Band or Branch to prevent a woman from playing her chosen instrument while pregnant.</p> <p>The decision of whether or not a pregnant woman should continue playing and for how long should be hers to make in consultation with her doctor and her tutor/band.</p> <p>Under some circumstances exceptions may apply to pregnant employees or volunteers.</p>
HIV/AIDS	It is only lawful to discriminate on the basis of a person's HIV/AIDS status where the discrimination is reasonably necessary to protect the health and safety of other persons. However, this exception only rarely applies.

APPENDIX 3: DEFINITION OF CHILD ABUSE

<p>WHAT IS CHILD ABUSE?</p>	<p>Child abuse is a term used to describe ways in which children are harmed, usually by adults and often by those they know and trust. It includes physical abuse, which results in non-accidental injuries; emotional abuse, which causes psychological or emotional damage; neglect, which results in ill health; and sexual abuse, which includes a range of sexual activity and exploitation of children, that can result in physical or psychological damage.</p> <p>Child abuse is illegal in all states and territories of Australia. Although the legal definition of a ‘child’ varies from jurisdiction to jurisdiction and from legislation to legislation, the Australian Pipe Band Association feels that the policies dealing with protecting children should cover people 17 years of age and younger.</p>
<p>CHILD ABUSE IN PIPE BANDS</p>	<p>When adults are dealing with children in a pipe band various behaviours can occur that amounts to child abuse. Unfortunately while most people know that some behaviour is bad teaching practice and/or poor communication skills, they often don’t know that some bad behaviour can also be abuse. Here are examples of behaviour that is abuse.</p>
<p>NON-ACCIDENTAL INJURY TO CHILDREN</p>	<p>Most children will collect cuts and bruises in their daily lives but some physical injuries or bruising can only be caused non-accidentally.</p>
<p>INAPPROPRIATE TUITION AND TRAINING</p>	<p>People working with children must tailor tuition and training programs to ensure that they are appropriate for the age, strength, coordination, skill and emotional levels of children. Tuition and training techniques that give extra physical loads to children as part of the learning regime or as ‘punishment’ can be dangerous to the health of children who are already physically tired.</p> <p>Effective tuition and training techniques will also take into account the emotional individuality of children. Children should be emotionally prepared for an activity in order to perform it confidently and without anxiety. They respond differently to the challenges of learning an instrument. This includes both the musical and physical requirements of playing in a pipe band, and what is ‘pushing’ (by a tutor, pipe major, drum sergeant, drum major or a parent) to one child may be emotionally destructive to another. Physical abuse also includes giving children illegal or inappropriate drugs that may affect their physical or psychological development.</p>
<p>EMOTIONAL ABUSE</p>	<p>It is not appropriate to address children in a derogatory way when their performance is not to the tutor’s (or other pipe band personnel) liking. Nor is it appropriate to demean their performance in front of others or, even if speaking to them individually, to refer to physical attributes (for example clumsiness) to make them perform better. Tutors and other pipe band personnel should ensure that they do not give only negative feedback on performance. Providing constructive feedback on the negatives and praise for the positives is a more appropriate way to teach children.</p>
<p>INAPPROPRIATE TOUCHING</p>	<p>It may be necessary for a tutor, pipe major, drum sergeant or drum major to have physical contact with children in order to demonstrate technique. Such contact must be necessary and appropriate to the situation and always professional. Inappropriate touching can include lengthy or uninvited contact.</p>
<p>SEXUAL ABUSE</p>	<p>Sexual abuse is a criminal offence involving a range of sexual activity between a child and a person who is older, or has power, authority or control over a child. This abuse encompasses a wide range of behaviour from, for example, engaging a child in sexual conversation, showing sexual pictures to a child and exposing one’s genitals, to sexual touching and invasive sexual acts.</p> <p>Sexual abuse can involve forcing, tricking, bribing, threatening, emotionally manipulating or pressuring a child into sexual activity even if the child has, or appears to have, consented. Note that children 16 years and under cannot legally consent to sexual acts.</p> <p>Care must be taken to decrease vulnerability to child sexual abuse within the Australian Pipe Band Association because tutors, pipe majors, drum sergeants, drum majors, adult band personnel and APBA officials are able to assert authority and power over children. Unfortunately, sexual offenders take advantage of such positions of trust and authority.</p>
<p>OTHER SENSITIVE AREAS</p>	<p>People working with children should be aware of age sensitivities and cultural or religious differences, and how these may change the way people look at certain activities. Working with children with physical and emotional disabilities may also require careful and sensitive handling. Pipe band personnel from diverse backgrounds, and people working with children of diverse origins, will need to adjust work practices and be sensitive to the different way in which their actions and behaviour may be seen.</p>

Source: Australian Sports Commission ‘Protecting Children from Abuse in Sport 2000’, pp 3 - 4, 2.1 & 2.2

APPENDIX 4: CHECKLIST FOR PREVENTING CHILD ABUSE

1. Make a clear statement that child abuse is criminal behaviour and list the actions the APBA, branch, band will take in such instances.
2. Ensure that the APBA, branch, band constitutions, regulations and by-laws support the policy and allow it to be enforced.
3. Ensure these policies and procedures are consistent with state laws that protect children.
4. Adopt a code of ethics and have all members sign it. Have members renew their pledge on a regular basis.
5. Define the job responsibilities of each person involved in delivering a service in the APBA including branches and bands. Identify high-risk positions, applicants for which should be screened and/or checked by the police.
6. Check the references of job applicants and interview short listed candidates.
7. Develop procedures to deal with allegations of child abuse.
8. Appoint a contact officer, let members know who the person is, and ensure that the person selected receives training in child protection issues.
9. Develop procedures for conducting a police check.
10. Appoint a person(s) to handle reports resulting from police checks.
11. Provide information to tutors and others working with children about how to recognise child abuse, and give them directions on what to do if abuse is reported or suspected.
12. Contact the child protection agencies and education agencies in your state for assistance with education, training and policy development.

Source: Australian Sports Commission 'Protecting Children from Abuse in Sport 2000', p 27

APPENDIX 5: SPENT CONVICTIONS LEGISLATION

On 30 June 1990, new Commonwealth legislation relating to the collection, use and disclosure of old conviction information came into effect. This new law is commonly known as the Spent Conviction Scheme.

The aim of the Scheme is to prevent discrimination on the basis of certain old convictions, once a waiting period has passed and provided the individual has not re-offended. The Scheme also covers convictions where an individual's conviction has been set aside or pardoned.

An individual whose conviction is protected by Part VIIC of the *Crimes Act* 1914 does not have to disclose that conviction to any person, including a Commonwealth authority, unless an exclusion applies. Commonwealth authorities are prohibited from taking into account or from disclosing without consent of the individual such convictions.

A spent conviction is a conviction for either a Commonwealth, Territory, State or foreign offence which satisfies all of the following conditions:

it is 10 years since the date of the conviction (or 5 years for child offenders); the individual was not sentenced to imprisonment or was not sentenced to imprisonment for more than 30 months;
the individual has not re-offended during the 10 year (5 years for child offenders) waiting period; and
a statutory or regulatory exclusion does not apply. (A full list of exclusions is available from the Privacy Commissioner.)

The Attorney-General, on the recommendation of the Privacy Commissioner, has granted exclusions, both partial and full, from the operation of the Scheme for several categories of employment. There are also statutory exclusions contained within the Act. This means that applicants for those positions must declare all convictions where a full exclusion exists, or convictions for specific offences where a partial exclusion exists. Details of exclusions should be provided to you by the employing organisation before your consent is sought to conduct a criminal history check.

An individual who believes the standards dealing with disclosure and use of old conviction information have been breached may apply to the privacy Commissioner for an investigation of the matter. The address is GPO Box 5218, SYDNEY, NSW 2001.

For more information please phone (02) 6256 7777
or email Criminal History Branch: vetting@afp.gov.au

APPENDIX 6
CHILD PROTECTION STATE LEGISLATION, EDUCATION AGENCIES AND
NOTIFICATION CONTACTS.

NOTE TO : NEW SOUTH WALES BANDS

As at 31.1.05 Volunteer tutors in New South Wales are not required to have police checks. However each tutor (i.e. Pipe Major and Drum sergent) should read this whole policy and then read and sign the following document (Attachment 4, PROHIBITED EMPLOYMENT DECLARATON) produced by the Department of Community Services. A copy of this form should be signed by each tutor and retained by the band secretary or where ever the band's records are kept.

PROHIBITED EMPLOYMENT DECLARATION



CHILD PROTECTION (PROHIBITED EMPLOYMENT) ACT 1998

The *Child Protection (Prohibited Employment) Act 1998* makes it an offence for a person convicted of a serious sex offence (a Prohibited Person) or a Registrable Person under the *Child Protection (Offenders Registration) Act 2000*, to apply for, undertake or remain in, child-related employment. It does not apply if an order, from the Industrial Relations Commission or the Administrative Decisions Tribunal or the Commission for Children and Young People, declares that the Act does not apply to a person in respect of a specific offence.

Section 5 of the *Child Protection (Prohibited Employment) Act 1998* defines a serious sex offence as:

- an offence involving sexual activity or acts of indecency that was committed in NSW and that was punishable by penal servitude or imprisonment for 12 months or more, even if the sentence was not served; or
- an offence involving sexual activity or acts of indecency that was committed elsewhere and that would have been punishable by penal servitude or imprisonment for 12 months or more if it had been committed in NSW; or
- an offence under Sections 91D-91G (other than if committed by a child prostitute) and 578B or 578C(2A) of the *Crimes Act 1900* or a similar offence under a law other than a law of NSW; or
- an offence of attempting, or of conspiracy or incitement, to commit an offence referred to in the preceding paragraphs; or
- any other offence prescribed by the regulations.

Note: A conviction for carnal knowledge is classified as a serious sex offence under this legislation.

Child-related employment means any employment, where at least one of the essential duties of the position, involves direct contact with children where that contact is not directly supervised. Section 3 of the *Child Protection (Prohibited Employment) Act 1998* specifies that child-related employment is employment:

- involving the provision of child protection services;
- in pre-schools, kindergartens and child care centres (including residential child care centres);
- in schools or other educational institutions (not including universities);
- in detention centres (within the meaning of the *Children (Detention Centres) Act 1987*);
- in refuges used by children;
- in wards of public or private hospitals in which children are patients;
- in clubs, associations or movements (including of a cultural, recreational or sporting nature) having a significant child membership;
- in any religious organisation;
- in any entertainment venues where the clientele is primarily children;
- as a babysitter or childminder that is arranged by a commercial agency;
- involving fostering or other child care;
- involving regular provision of taxi services for the transport of children with a disability;
- involving the private tuition of children;
- involving the direct provision of health services;
- involving the provision of counselling or other support services for children;
- on school buses;

ATTACHMENT 4 (CONTINUED)

- at overnight camps for children;
- any other prescribed by regulation.

Under this Act:

- it is an offence for a Prohibited Person to **apply for, undertake or remain in** child-related employment;
- employers **must** ask existing employees, both **paid** and **unpaid**, and preferred applicants for employment to declare if they are a Prohibited Person or not;
- all child-related employees **must** inform their employers if they are a Prohibited Person or remove themselves from child-related employment. A Prohibited Person is someone who has been convicted of a serious sexual offence or, who has had a finding for a charge of a serious sexual offence proven in court, even if a conviction was not recorded;
- penalties are imposed for non compliance.



I am aware that I am ineligible to apply for, undertake or remain in, child-related employment if I have been convicted of a serious sex offence as defined in the *Child Protection (Prohibited Employment) Act 1998* or if I am a Registrable Person under the *Child Protection (Offenders Registration) Act 2000*.

I have read and understood the above information in relation to the *Child Protection (Prohibited Employment) Act 1998*. I am aware that it is an offence to make a false statement on this form.

I declare that I am not a person prohibited by the Act from seeking, undertaking or remaining in child-related employment.

I understand that this information may be referred to the Commission for Children and Young People and/or to NSW Police for law enforcement purposes and for monitoring and auditing compliance with the procedures and standards for employment screening in accordance with Section 36 (1) (f) of the *Commission for Children and Young People Act 1998*.

Name: _____

Signature: _____

Date: _____

Contact telephone number: _____

Note: Seek legal advice if you are unsure of your status as a Prohibited Person.

THIS FORM IS TO BE RETURNED TO YOUR EMPLOYER

NSW Commission for Children and Young People
04/04

APPENDIX 7:

IMPLEMENTING THE MEMBER PROTECTION POLICY: TAKING REASONABLE STEPS

Reasonable steps to be taken by your Branch to prevent inappropriate behaviour and having policies and procedures for dealing with inappropriate behaviour should it occur includes:

Ensuring that your board or management committee understands and endorses the Member Protection Policy.

Checking that the Member Protection Policy is tailored to the particular needs of members, bands or Branches -you may want to add more information, for example on drugs and alcohol. You will also need to make sure you have all the relevant information on the state laws, procedures and support agencies relevant to your own branch, members and bands with a copy of such information to be held in the national protection file as reference. Reference to information for each Branch in these areas should be recorded as Appendix 6.

Sources for more information the Australian Sports Commission or Office for Recreation and Sport for further advice and assistance.

Ensuring that the Member Protection Policy is communicated to all members, service providers and employees, including volunteers. You may do this through an official launch of the Policy, newsletters, noticeboards and computer networks, as well as in personnel manuals and in training, volunteer and other handbooks.

Assigning responsibility for the Member Protection Policy's circulation and review to a specific position.

Appointing a member of your board or other appropriate people to receive and handle complaints. Remember this could be someone from a band, or a person from a Branch. If someone is appointed within your Band or Branch to handle these responsibilities it is important that appropriate training is provided in receiving and handling complaints.

For information on such training contact the Australian Sports Commission or Office for Recreation and Sport.

Making sure members, service providers and volunteers know who to go to regarding queries and complaints around behaviours involving abuse, discrimination or harassment.

Ensuring your band or Branch have developed clear procedures for dealing with abuse, discrimination and harassment and that if a complaint arises it is dealt with promptly, sensitively and in a confidential manner.

Monitor the Member Protection Policy's effectiveness through surveys, and interviews with employees or members who leave the Association.