

Eastern Suburbs Football Association Incorporated



MEMBER PROTECTION POLICY

Effective from 1st March 2005

PREFACE

Message from the Chief Executive Officer

The Eastern Suburbs Football Association (ESFA) is committed to the health, safety and general well-being of all its members and supporters. The organisation is dedicated to providing a safe, friendly and prosperous environment for members and providers participating in any ESFA activities.

Our organisation greatly values the social and cultural significance of sport for individuals and for the community. We all have the right to enjoy our sport, at whichever level and in whatever capacity we participate.

As an organisation, we are determined to be a leader in ensuring harassment-free and non-discriminatory practices are implemented for the diverse range of all our players, coaches, officials, administrators, volunteers and supporters.

I commend this Member Protection Policy to you and hope that you are inspired to reach your potential in soccer in a safe and enjoyable manner.

Mark Louis
Chief Executive Officer
ESFA

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PART I –INTRODUCTION

This Part sets out the purpose of this Policy, who it applies to, when it commences, what words mean and who has responsibilities under the Policy.

1 What is the Purpose of this Policy?

- 1.1 The purpose of this Policy is to provide guidelines for the protection of the health, safety and well being of all Eastern Suburbs Football Association (ESFA) members and those who participate in the activities of ESFA and Member Clubs
- 1.2 This Policy sets out the procedures to be followed in dealing with Harassment and other forms of inappropriate behaviour in an effective, appropriate and timely manner. The Policy provides a procedure for informal and formal resolution of complaints.

2 Who does this Policy apply to?

- 2.1 This Policy applies to the following organisations and individuals:
 - (a) persons appointed or elected to boards of directors, executives and/or committees (including sub-committees) of ESFA and Member Clubs;
 - (b) employees of ESFA and Member Clubs;
 - (c) officials appointed or elected by ESFA and Member Clubs in relation to players and/or teams which represent such organisations including team management personnel such as managers and physiotherapists;
 - (d) coaches (including assistant coaches) who:
 - (i) are appointed and/or employed by ESFA and Member Clubs (whether paid or unpaid); or
 - (ii) have an agreement (whether or not in writing) with ESFA or a Member Club to coach at a facility owned or managed by such organisation;
 - (e) referees and other officials involved in the regulation of the sport appointed by ESFA, ESSRA or a Member Club;
 - (f) players who enter any tournament, activity or events (including camps, training sessions, etc) which are held or sanctioned by ESFA or a Member Club;
 - (g) Member Clubs;
 - (h) any other person or organisation, who or which is, a member of, or affiliated to ESFA or a Member Club (including life members);
 - (i) any other person or organisation (for example, a parent/guardian, spectator or sponsor) who or which agrees, in writing or otherwise (whether on a ticket, entry form, etc) to be bound by this Policy

3 What is the Status of this Policy?

- 3.1 This Policy is issued by the ESFA Board under the powers of the constitution.
- 3.2 This Policy comes into force on 1st March 2005.
- 3.4 This Policy may be changed from time to time by resolution of the Board.

4 What do Words in this Policy Mean?

4.1 In this Policy, words appearing with a capital shall have the meaning set out in Attachment A and Attachment A will form part of this Policy.

5 Responsibilities under this Policy

5.1 ESFA and Member Clubs must:

- (a) adopt and comply with this Policy;
- (b) recognise and enforce any penalty imposed under this Policy;
- (c) publish, distribute and promote this Policy (and any amendments made to it from time to time) to their members in the manner required by ESFA and make this Policy available for inspection, or provide a copy;
- (d) make such amendments to their constitution, rules or by-laws in order for this Policy to be enforceable, as required by ESFA;
- (e) use any forms, contracts and clauses prescribed by ESFA in order to give effect to this Policy in such documents as contracts, entry forms and player registration forms, as directed by ESFA;
- (f) appoint and train at least one Member Protection Officer and one Mediator or have access to such persons in another sport to fulfil the functions set out in clauses 14, 15 and 16, and to publish and display the names and contact details of such persons to their members;

5.3 All other organisations and persons (for example, administrators, employees, officials, coaches, players, parents) to which this Policy applies, must:

- (a) comply with this Policy;
- (b) comply with the Codes of Behaviour (as applicable) at Attachment D.

5.4 The Board of ESFA and the Member Clubs are responsible for taking all reasonable steps to ensure implementation, compliance and enforcement of this Policy.

PART II – PREVENTATIVE ACTION

This Part sets out the requirement for mandatory screening and declarations for certain roles.

6 What is Screening?

- 6.1 One of the ways ESFA and the Member Clubs seek to protect the health, safety and well being of people participating in their activities is to screen people for certain roles.
- 6.2 Screening (as set out in clause 6.4) is **mandatory** for ESFA and highly recommended for Member Clubs for Preferred Applicants and Existing Appointees in the following types of roles:
- (a) coaches and other personnel who are appointed or seeking appointment (whether employed, contracted or otherwise) by ESFA Inc for **payment or salary**;
 - (b) volunteer personnel appointed or seeking appointment by ESFA, who will or are likely to travel away with teams of players **under** 18 years of age; and
 - (c) persons appointed or seeking appointment by ESFA to a role in which that person is likely to have individual and unsupervised contact with players **under** 18 years of age.
- 6.3 Screening is **highly recommended**, but not mandatory, for Preferred Applicants and Existing Appointees in the following types of roles:
- (a) coaches and other personnel who are appointed or seeking appointment (whether employed, contracted or otherwise) by Member Clubs for **payment or salary**;
 - (b) volunteer personnel appointed or seeking appointment by Member Clubs, who will or are likely to travel away with teams of players **under** 18 years of age;
 - (c) volunteer coaches appointed or seeking appointment to a Member Club who will or are likely to travel away with teams of players **over** 18 years of age; and
 - (d) persons appointed or seeking appointment by a Member Club to a role in which that person is likely to have contact with players **under** 18 years of age but where such contact is supervised at all times by another adult.
- 6.4 For the purposes of this Policy, screening shall mean:
- (a) Checking the Preferred Applicant's referees;
 - (b) Interviewing the Preferred Applicant as to their suitability for the proposed role and their suitability for involvement with children under 18 years of age;
 - (c) Making it necessary for the Preferred Applicant to complete a Prohibited Persons Declaration as set out in clause 7; and
 - (d) Obtaining a Police Check of Preferred Applicants of ESFA.
- 6.5 Checking the Preferred Applicant's referees includes making verbal or written inquiries of the nominated referees (preferably at least two) as to the Preferred Applicant's suitability for the proposed role and their suitability for involvement with young people under the age of 18.
- 6.6 The purpose of a Police Check is to see whether the person has any previous relevant criminal convictions. If the Police Check reveals that the person has committed any criminal offences then the following applies:

- (a) If the offence is a sexual offence (see clause 7.2) then:
 - (i) in the case of a Preferred Applicant, they must not be appointed to the role;
 - (ii) in the case of an Existing Appointee, steps must be taken to transfer the person to another role which is not set out in clause 6.2 or if no such alternatives exist, to end the appointment of the person. **Note: legal advice should be sought before the process of termination begins.**
- (b) If the offence is one other than those in clause 6.6(a), such as a minor traffic offence, then the Preferred Applicant may be appointed, subject to satisfaction of any other criteria for the role.

6.7 The cost of the Police Check shall be borne by the individual who is being screened.

6.8 All persons to whom this Policy applies must agree to ESFA obtaining a Police Check of them if they apply for or currently hold a role of the type set out in clause 6.2. The Police Check must be obtained, in the case of:

- (a) a Preferred Applicant, prior to the appointment;
- (b) an Existing Appointee, by *1st March 2005*.

6.9 All information obtained during the course of screening (including any Police Check) must be kept confidential to the persons or committee within ESFA or the Member Club who has been delegated the task of investigating and/or making the appointment for the role. Information collected during screening about the Preferred Applicant who is not appointed to the role must be returned to that person and not retained unless that person agrees. Other information will be kept in a secure or locked filing cabinet.

6.10 Successful Preferred Applicants or Existing Appointees must immediately advise, in writing, the President (or in their absence their Nominee) of the organisation that appointed them if they are convicted of a criminal offence.

6.11 Screening under this Policy is **not** a replacement for any similar requirement prescribed by law. If State screening legislation sets an equivalent or higher standard of screening to that set under this Policy, the requirement to screen under this Policy need not be followed as it would be superseded by any similar requirement prescribed by law.

7 Prohibited Person Declaration

7.1 In addition to screening, it is **mandatory** for ESFA and **highly recommended** for Member Clubs to obtain a Prohibited Person Declaration from all Preferred Applicants and Existing Appointees appointed to a role set out in clause 7.3.

7.2 In this Policy, the following words shall mean:

‘Prohibited Person’ means a person who has been convicted of a Serious Sex Offence.

‘Prohibited Person Declaration’ means a declaration in relation to Serious Sex Offences as set out in Attachment E.

‘Serious Sex Offence’ means sexual offences as contained in the ...

- 7.3 It is **mandatory** for ESFA and **highly recommended** for Member Clubs to obtain a Prohibited Person Declaration from Preferred Applicants and Existing Appointees in the following types of roles:
- (a) coaches or other officials who are appointed or seeking appointment (whether employed, contracted or otherwise) by ESFA or Member Clubs for **payment or salary**;
 - (b) volunteer personnel appointed or seeking appointment by ESFA or Member Clubs, who will or are likely to travel away with teams of players **under** 18 years of age; and
 - (c) persons appointed or seeking appointment by ESFA or a Member Club to a role in which that person is likely to have individual and unsupervised contact with players **under** 18 years of age.
- 7.4 It is a breach of this Policy for a Prohibited Person to work or seek work in the roles set out in clause 7.3.
- 7.5 It is also a breach of this Policy for ESFA to:
- (a) in the case of a Preferred Applicant, to appoint the Preferred Applicant in any of the roles set out in clause 7.3 without first obtaining a Prohibited Person Declaration or to appoint a Preferred Applicant who is a Prohibited Person;
 - (b) in the case of an Existing Appointee, to continue to appoint a Prohibited Person in the roles set out in clause 7.3.
- 7.6 The Prohibited Person Declaration must be obtained, in the case of:
- (a) a Preferred Applicant, prior to the appointment;
 - (b) an Existing Appointee, by *1st March 2005*.
- 7.7 If the Prohibited Person Declaration is not provided in accordance with clause 7.6, or the Prohibited Person Declaration reveals that the person is a Prohibited Person, ESFA must:
- (a) in the case of a Preferred Applicant, not appoint the person to any of the roles set out in clause 7.3;
 - (b) in the case of an Existing Appointee, steps must be taken to transfer the person to another role which is not set out in clause 7.3.
- 7.8 All information in the Prohibited Person Declaration must be kept confidential to the persons or committee within ESFA or the Member Club who has been delegated the task of requesting and reviewing the Prohibited Person Declaration.
- 7.9 Successful Preferred Applicants or Existing Appointees must immediately advise, in writing, the President (or in their absence their Nominee) of the organisation that appointed them, upon becoming a Prohibited Person.
- 7.10 Obtaining a Prohibited Person Declaration under this Policy is **not** a replacement for any similar requirement prescribed by law. If State legislation sets an equivalent or higher standard to that set under this Policy the requirement to obtain a Prohibited Person Declaration under this Policy need not be followed as it would be superseded by any similar requirement prescribed by law.

PART III – BREACHES

This Part outlines what constitutes a breach of this Policy.

8 What is Harassment?

- 8.1 Harassment is any behaviour by a person or organisation to whom this Policy applies which is offensive, abusive, belittling or threatening and which is directed at a person or a group of people because of a particular characteristic of that person or group of people. The behaviour must be unwelcome and the sort of behaviour a reasonable person would recognise as being unwelcome and likely to cause the recipient to feel offended, humiliated or intimidated. Whether or not the behaviour is Harassment is determined from the point of view of the person receiving the Harassment.
- 8.2 Harassment includes:
- (a) Sexual Harassment (clauses 8.3 to 8.6);
 - (b) Racial Harassment (clauses 8.7 and 8.8);
 - (c) Sexuality Harassment (clauses 8.9 to 8.11);
 - (d) Disability Harassment (clauses 8.12 and 8.13);
 - (e) Abuse (clauses 8.14 to 8.16);
 - (f) Vilification (clause 8.18); and
 - (g) Discrimination (clause 9).
- 8.3 Sexual Harassment includes:
- (a) an unwelcome sexual advance; or
 - (b) an unwelcome request for sexual favours; or
 - (c) any unwelcome conduct of a sexual nature (including a statement, orally or in writing, of a sexual nature),
- 8.4 Sexual Harassment is often, but need not be, behaviour which either:
- (a) involves blackmail, in that the harassment is accompanied by a direct or implied threat, promise or benefit. For example, a coach who implies that a player's selection to a team is dependent on compliance with a sexual proposition; or
 - (b) creates a hostile or sexually permeated environment, in that the harassment consists of crude remarks, jokes, the display of offensive material or makes the environment uncomfortable.
- 8.5 Examples of Sexual Harassment may include:
- Uninvited touching, kissing, embracing, massaging;
 - Staring, leering, ogling;
 - Sexually offensive jokes and comments;
 - Persistent or intrusive questions about people's private lives;
 - Repeated invitations to go out, especially after prior refusal;
 - The use of promises or threats to coerce someone into sexual activity;
 - The display of sexually explicit material, eg Internet use, computer screen savers, calendars, posters;
 - Getting undressed in front of other people;
 - Invading the privacy of others while showering or toileting;
 - Photographing others while undressing, showering or toileting.
- 8.6 Sexual Harassment may be a criminal offence, for example indecent assault, rape, obscene telephone calls or letters. If you believe that a criminal offence may have been committed you may seek advice from the relevant State or Territory authority that administers the relevant law (eg. the Human

Rights Office) or legal advice and/or notify the police. You can do this without divulging the name or identity of the complainant.

- 8.7 Sexual behaviour of any kind between an adult and a minor must be reported to the appropriate authorities.
- 8.8 Racial Harassment includes harassment based on colour, descent, national or ethnic origin, cultural activity and religion.
- 8.9 Examples of Racial Harassment include:
- Jokes in which race is a significant characteristic of the ‘butt’ of the joke;
 - Hostile comments about food eaten, dress or religious or cultural practices;
 - Inferences that all members of a racial or cultural group have particular negative characteristics, including laziness, drunkenness, greed or sexual promiscuity;
 - Parodying accents.
- 8.10 Sexuality Harassment includes harassment based on actual or assumed homosexuality, heterosexuality, bi-sexuality or trans-sexuality.
- 8.11 Examples of Sexuality Harassment include:
- Jokes in which sexuality is a significant characteristic of the ‘butt’ of the joke;
 - Hostile comments about assumed sexual practices or social activities.
- 8.12 In severe cases, such as threats or acts of violence against a homosexual person, Sexuality Harassment may be a criminal offence. If you believe that a criminal offence may have been committed you may seek advice from the relevant State or Territory authority that administers the relevant law (eg. the Human Rights Office) or legal advice and/or notify the police. You can do this without divulging the name or identity of the complainant.
- 8.13 Disability Harassment includes harassment based on physical, mental or psychological disability or harassment of an associate or aide of a person with a disability.
- 8.14 Examples of Disability Harassment include:
- Jokes where a particular disability is a significant characteristic of the ‘butt’ of the joke;
 - Interfering with a disability aid, (eg hearing aid);
 - Obstructing a person in a manner that compounds his or her disability, (eg putting obstacles in the path of a person with a vision impairment);
 - Mocking a person’s disability;
 - Hostility based on assumed AIDS or HIV infection.
- 8.15 Abuse may be a form of Harassment. It includes:
- (a) physical abuse, (e.g. assault);
 - (b) emotional abuse, (e.g. blackmail, repeated requests or demands, excluding someone or ‘bastardisation’ practices, verbal abuse);
 - (c) neglect, (e.g. failure to provide the basic physical and emotional necessities of life);
 - (d) abuse of power, which the harasser holds over the harassed.

Examples of relationships in (d) that involve a power disparity include a coach–player, manager–player, employer–employee, doctor–patient. People in such positions of power need to be particularly wary not to exploit that power.

- 8.16 Examples of abusive behaviour include:
- Bullying and humiliation of players by coaches;

- Verbal abuse and insults directed by players or parents at opposing participants;
 - Verbal and/or physical abuse of umpires by players, spectators, parents and coaches.
- 8.17 Some forms of Abuse may constitute a criminal offence, for example assault and child abuse. If you believe that a criminal offence may have been committed you may seek advice from an appropriate State or Territory authority that administers the relevant law (eg. the Department of Education, Youth and Family Services) or legal advice and/or notify the police.
- 8.18 Racial Vilification involves a person inciting hatred towards, serious contempt for, or severe ridicule of, a person or group of persons by a public act. Public acts that may amount to vilification include any form of communication to the public and any conduct observable by the public.
- 8.19 Racial or other forms of Vilification are breaches of this Policy where they are based on any of the attributes or characteristics set out in clause 9.2.
- 8.20 ESFA takes the view that intimate sexual relationships between coaches and players, while not necessarily constituting Harassment, can have harmful effects on the individual player involved, on other players, and on the sport's public image. Such relationships may be perceived to be exploitative because there is usually a disparity between coaches and players in terms of authority, maturity, status and dependence. Given there is always a risk that the relative power of the coach has been a factor in the development of such relationships, they should be avoided by coaches at all levels. In the event that a player attempts to initiate an intimate sexual relationship, the coach must take personal responsibility for discouraging such approaches, explaining the ethical basis for such actions.

9 What is Discrimination?

- 9.1 Discrimination is treating or proposing to treat a person less favourably than someone else in certain areas of public life on the basis of an attribute or personal characteristic they have.
- 9.2 The applicable attributes or characteristics are:
- Age;
 - Disability (including infectious diseases, eg. HIV);
 - Marital status;
 - Parental/Carer status;
 - Physical features;
 - Political belief/activity;
 - Pregnancy;
 - Race;
 - Religious belief/activity;
 - Sex or gender;
 - Sexual orientation;
 - Transgender orientation.
- 9.3 The areas in which Discrimination under this Policy are not permitted are in:
- (a) employment (including unpaid/voluntary employment) by ESFA or a Member Club;
 - (b) the provision of goods and services by ESFA or a Member Club;
 - (c) the selection or otherwise of any person for competition or a team (domestic or international) by or on behalf of ESFA or a Member Club;
 - (d) the entry or otherwise of any player or other person to any competition held or sanctioned by ESFA or a Member Club;

- (e) obtaining or retaining membership (including the rights and privileges of membership) of ESFA or a Member Club.
- 9.4 Not only is Discrimination unlawful, but ESFA and the Member Clubs also consider it is unjust because it may deny people a chance by judging them on the basis of stereotypes or assumptions about what they can or cannot achieve.
- 9.5 Discrimination includes direct Discrimination and indirect Discrimination. Direct Discrimination occurs if a person treats, or proposes to treat, someone with an attribute or characteristic (as outlined in clause 9.2) less favourably than the person treats or would treat, someone without that attribute or characteristic, in the same or similar circumstances. Indirect Discrimination occurs where a person imposes or intends to impose a requirement, condition or practice which on its face is not discriminatory, but has the effect of discriminating against a person(s) with a particular attribute.
- 9.6 Requesting, assisting, instructing, inducing or encouraging another person to engage in Discrimination, is also Discrimination.
- 9.7 Any behaviour or conduct that is Discrimination under any Federal or State legislation is also Discrimination for the purposes of this Policy.

10 What Other Misconduct is a Breach?

- 10.1 Conduct by persons or organisations to whom this Policy applies which is not Harassment and which (if committed) is a breach of this Policy, (referred to as 'Other Misconduct') means and includes the following:
- (a) Conduct which occurs on the field of play in any game or competition, or on the site of any tournament, event or activity held or sanctioned by ESFA or a Member Association and which brings the sport and/or ESFA or a Member Club into disrepute;
 - (b) Damage to property which occurs during or in connection with a game, tournament, event or activity held or sanctioned by ESFA or a Member Club;
 - (c) Disruptive or disorderly behaviour during or in connection with a game, tournament, event or activity held or sanctioned by ESFA or a Member Club;
 - (d) Incurring debts (eg telephone or accommodation charges without permission being granted) on behalf of ESFA or a Member Club during or in connection with a game, tournament, event or activity held or sanctioned by ESFA or a Member Club where such debts were or are not authorised by ESFA or a Member Club;
 - (e) Committing any criminal offence or any other unlawful activity during or in connection with a tournament, event or activity held or sanctioned by ESFA or a Member Club.
- 10.2 **Victimisation** occurs where a person is subject to, or is threatened to suffer, any detriment or unfair treatment, because that person has or intends to pursue their legal rights under anti-harassment or anti-discrimination legislation or under this Policy.

11 Codes of Behaviour

- 11.1 To protect the health, safety and well being of all people participating in the activities of ESFA and Member Clubs, ESFA has developed and issued Codes of Behaviour. The Codes of Behaviour are set out in Attachment D and Attachment D will form part of this Policy.

12 What is a Breach of this Policy?

- 12.1 It is a breach of this Policy for any person or organisation to whom this Policy applies to:
- (a) Fail to comply with any of the responsibilities set out in clause 5;
 - (b) Breach any part of the Codes of Behaviour;
 - (c) Appoint, or continue to appoint, a person to a role set out in clause 6.2:
 - (i) without first undertaking screening (see clause 6.4); and
 - (ii) where the Police Check reveals the person has committed an offence of the type set out in clause 6.6(a);
 - (d) Appoint, or continue to appoint, a person to a role set out in clause 7.3:
 - (i) without first obtaining a Prohibited Person Declaration; or
 - (ii) where the Prohibited Person Declaration reveals the person is a Prohibited Person;
 - (e) Where the person is a Prohibited Person, to work or seek work in the roles set out in clause 7.3;
 - (f) Engage in any form of Harassment;
 - (g) Engage in behaviour set out in clause 10;
 - (h) Make a frivolous, vexatious or malicious Complaint under this Policy.

13 Complaint Resolution Procedure

- 13.1 Any person or organisation may make a complaint about a person or organisation to whom this Policy applies, if they consider that a person or organisation has, or may have, committed a breach of any part of this Policy (a 'Complaint').
- 13.2 **The Complaint always belongs to the complainant**, who will determine how their Complaint is dealt with. The Complaint will not be divulged to another person without the complainant's agreement, except in the case where a person is required by law to report the matter to government authorities (for example, in the case of suspected child abuse).
- 13.3 It is recommended that Complaints are handled, as fast as possible, at an informal level. A commonsense, low-key approach is often far more satisfactory to the complainant and to the person complained about.
- 13.4 The **four principles of case handling** will apply at every stage of these procedures. This means that all responsible persons will handle all cases:
- promptly,
 - seriously,
 - sensitively and
 - confidentially.

14 Informal Complaint Resolution Procedure

- 14.1 A person or organisation that has a Complaint ('a complainant') may seek to resolve the Complaint informally. It is hoped the complainant will make an initial approach to a Member Protection Officer (MPO) within ESFA or within the sports industry.

If the complainant makes an approach to:

The President (or in their absence their Nominee) of ESFA or a Member Club; or another appropriate person within the organisation (eg team manager, coach etc) then it is desirable that the person also seeks the advice of an MPO who has been specially trained for this purpose.

If there are no trained (or available) MPO's on staff or within the organisation's membership, it is recommended access to a trained MPO working in an allied sport be obtained via the Australian Sports Commission Ethics in Sport Unit.

- 14.2 Member Protection Officers will:

- (a) listen to the complainant in an empathetic, supportive manner;
- (b) inform the complainant about their options; and/or
- (c) act as a support person for the complainant, including supporting them through any mediation process undertaken to resolve the Complaint, if the complainant wishes.

- 14.3 The Member Protection Officer will:

- (a) keep the matter confidential and only discuss it with those people whom the complainant has authorised them to speak to about the Complaint; and/or
- (b) inform the relevant government authority, if required by law; and
- (c) consult by seeking advice from the relevant State or Territory authority that administers the relevant law (eg. the Human Rights Office).

- 14.4 If the complainant wishes to try and resolve the Complaint by mediation, the Member Protection Officer will, in consultation with the complainant, arrange for a mediator (either the Mediator of ESFA or the relevant Member Club, or a relevant third person) to mediate the Complaint.

- 14.5 While there are some trained Mediators in most States and Territories, organisations are encouraged to access mediation skills from their community (eg. alternative dispute resolution services), to seek advice from the relevant State or Territory authority that administers the relevant law (eg. the Human Rights Office) or to contact the Australian Sports Commission where a case presents particular difficulties. The Australian Sports Commission Ethics in Sport Unit can provide access to trained Mediators from a range of sporting organisations.

- 14.6 The Mediator shall:

- (a) notify the person complained about that an informal Complaint has been made and provide them with details of the Complaint;
- (b) attempt to mediate a resolution between the complainant and the person complained about.

- 14.7 If an agreed resolution is reached between the complainant and the person complained about, the Complaint shall be deemed to have been resolved and no further action in relation to that Complaint may be taken (except for that which is agreed) under this Policy.

- 14.8 If following the process in clause 14.6 the Complaint is not resolved informally, the complainant may make a formal Complaint under clause 15.
- 14.9 Nothing in this Policy prevents the complainant taking action under State or Federal legislation.
- 14.10 It is not necessary to provide a written Complaint under Clause 14.

15 Formal Complaint Resolution Procedure

- 15.1 In order for a Complaint to be dealt with in accordance with this clause, a Complaint is usually made in writing (however it need not be called or referred to as a Complaint).
- 15.2 A written Complaint must be made to one of the following people:
- (a) a Member Protection Officer of ESFA or the relevant Member Club. (A list of the Member Protection Officers must be made available to any person requesting such list and shall be displayed at the premises of ESFA and Member Clubs); or
 - (b) The President (or in their absence their Nominee) of ESFA or the relevant Member Club.
- 15.3 If a person listed in clause 15.2 receives a Complaint and that Complaint alleges Harassment or Discrimination, then they should ensure that the complainant is offered the services of a Member Protection Officer who will offer services as set out in clauses 14.3 and 14.4.
- 15.4 If the complainant wishes to proceed to resolve the Complaint by formal mediation, the Member Protection Officer shall immediately notify the Mediator of ESFA or the Member Club that a Complaint has been made and provide them with a copy of the written Complaint. If an attempt to mediate informally was made under clause 14.5, the Mediator under this clause cannot be the same person.
- 15.5 The Mediator shall:
- (a) notify the person complained about, in writing, that a Complaint has been made and provide them with a copy of the written Complaint;
 - (b) attempt to mediate a formal resolution between the complainant and the person complained about.
- 15.6 If an agreed resolution is reached between the complainant and the person complained about, the Complaint shall be deemed to have been resolved and no further action in relation to that Complaint may be taken (except for that which is agreed) under this Policy.
- 15.7 If following the process in clause 15.5 an agreed resolution is **not** reached, the Mediator, in consultation with the complainant and following their wishes, will:
- (a) refer the Complaint to the relevant Member Club for them to resolve or arbitrate as they see fit; or
 - (b) refer the Complaint to the relevant State or Territory authority that administers the relevant law (eg. the Human Rights Office); or
 - (c) close the Complaint because that is the wish of the complainant

- 15.8 If a complainant withdraws the Complaint (which alleges Harassment), no further action in relation to that Complaint may be taken (unless required by law) under this Policy.
- 15.9 Nothing in this Policy prevents the complainant taking action under State or Federal legislation.

16 Suspected Breaches

- 16.1 If a Complaint is not received, but the President or in their absence their Nominee or a Member Protection Officer of ESFA or a Member Club receives information (whether or not in writing) which gives them reasonable cause to suspect that a breach of this Policy may have been committed, then he or she shall do the following:
- (a) if the information gives them reasonable cause to suspect a breach of this Policy involving Harassment or Discrimination, then such person shall use their reasonable endeavors to advise the person who is suspected of being subject to Harassment, of the complaints procedures under this Policy, including the services provided by a Member Protection Officer; or
 - (b) if the information gives them reasonable cause to suspect a breach of this Policy other than Harassment or Discrimination, then he or she shall refer the information to the relevant Member Club.
- 16.2 Except as otherwise provided in this Policy, all information obtained by the President, their Nominee, the Member Protection Officer or the Mediator in accordance with this clause must be kept confidential.

17 Determinations

- 17.1 Where the Member Club receives:
- (a) a Complaint referred to it under clause 15.4 or 15.7; or
 - (b) information referred to it under clause 16.1(b),
- the responsible officer shall follow the procedures set out in this clause.
- 17.2 Upon receipt of the Complaint or the information, the responsible officer shall as soon as possible determine what needs to be done. They will do this by:
- (a) consulting with the complainant and with any Member Protection Officers or Mediators who have already been involved and if relevant, with the person complained about;
 - (b) making a determination on the case which may include, but is not limited to, the following:
 - (i) refer the Complaint to the relevant State or Territory authority that administers the relevant law (eg. the Human Rights Office);
 - (ii) disciplinary action or imposition of a penalty (see clause 18);
 - (iii) a new, or further, attempt at mediation;
 - (iv) closure; or
 - (v) any other relevant determination;
 - (c) provided that any persons involved in the determinations do not include a person who would, by reason of their relationship with the complainant or the person complained about, be reasonably considered to be other than impartial.

- 17.3 **Frivolous, vexatious or malicious Complaints** are unlawful. If, at any point in the Complaint proceedings, it is determined that the Complaint was indeed frivolous, vexatious or malicious then the matter will be referred to the Member Club and the responsible officer will make a determination as at clause 17.2(b). Such a determination will always consider referral to the State or Territory authority which administers the relevant law (noting that in all jurisdictions such unlawful actions are punishable by a fine or gaol sentence).

18 What Penalties may be imposed?

- 18.1 If the Member Club and/or responsible officer considers that a person or organisation to whom this Policy applies, has breached this Policy, it may impose any one or more of the following penalties:

18.1.1 For breaches committed by individual persons:

- (a) direct that the offender attend counselling to address their conduct;
- (b) recommend that ESFA or the relevant Member Club terminate the appointment of the role which the offender holds with such organisation;
- (c) where there has been damage to property, direct that the offender pay compensation to the relevant organisation which controls or has possession of the property;
- (d) impose a monetary fine;
- (e) impose a warning;
- (f) in the case of a coach, direct the relevant organisation to de-register the accreditation of the coach for a period or indefinitely;
- (g) withdraw any awards, placing's, records won in any tournaments, activities or events held or sanctioned by ESFA or a Member Club;
- (h) direct the offender to repay all or part of any financial assistance (excluding any fee for service, wages or expenses) given to them by any Federal or State funding agency, the Australian Olympic Committee, ESFA, a Member Club, or any other organisation which has provided funding;
- (i) in the case of a player, suspension from competition fixtures;
- (i) any other such penalty as the organisation considers appropriate.

18.1.2 For breaches committed by organisations:

- (a) direct that any funding granted or given to it by ESFA or a Member Club cease from a specified date;
- (b) impose a monetary fine;
- (c) impose a warning;
- (d) recommend to ESFA and/or the relevant Member Club that its membership of such organisation be suspended or terminated in accordance with their applicable constitution;
- (e) direct that any rights, privileges and benefits provided to that organisation by ESFA or a Member Club be suspended for a specified period and/or terminated;
- (f) direct that ESFA and Member Clubs cease to sanction events held by or under the auspices of that organisation;
- (g) any other such penalty as the organisation considers appropriate.

ATTACHMENT A

POLICY DEFINITIONS

‘Abuse’ means a form of Harassment, as more specifically set out in clauses 8.15 to 8.17.

‘Australian Sports Commission’ means the government agency established under the Australian Sports Commission Act 1989 and includes the Australian Institute of Sport.

‘Codes of Behaviour’ means the codes of behaviour as set out in Attachment D.

‘Complaint’ means a complaint made under clauses 13 to 15.

‘Constitution’ means the constitution of ESFA as amended from time to time.

‘Disability Harassment’ means a form of Harassment, as specifically set out in clauses 8.13 & 8.14.

‘Discrimination’ means a form of Harassment, as more specifically set out in clause 9.

‘Existing Appointee’ means a person currently elected, appointed or holding a position, whether by way of employment, contract or otherwise and whether paid or unpaid.

‘General Manager’ means the General Manager or their Nominee of ESFA

‘Harassment’ has the meaning set out in clause 8.

‘Mediator’ means a person appointed in accordance with clause 5.1(f) to mediate disputes and concerns in relations to Complaints under this Policy.

‘Member Club’ means a financial member club under Clause 6 of the constitution.

‘Member Protection Officer’ means a person appointed in accordance with clause 5.1(f), who may be the first point of contact for someone bringing a Complaint under this Policy.

‘Police Check’ means a police records check which conducts a search on a national basis.

‘Policy’ and **‘this Policy’** means this Member Protection Policy.

‘Preferred Applicant’ means a person short listed for a position, whether by way of employment, contract or otherwise and whether paid or unpaid.

‘Racial Harassment’ means a form of Harassment, as specifically set out in clauses 8.8 and 8.9.

‘Responsible Officer’s means a person appointed by a Member Club in accordance with clauses 17 and 18 who may be the first point of contact for handling complaints.

‘Sexual Harassment’ means a form of Harassment, as specifically set out in clauses 8.3 to 8.6.

‘Sexuality Harassment’ means a form of Harassment, as specifically set out in clauses 8.10 to 8.12.

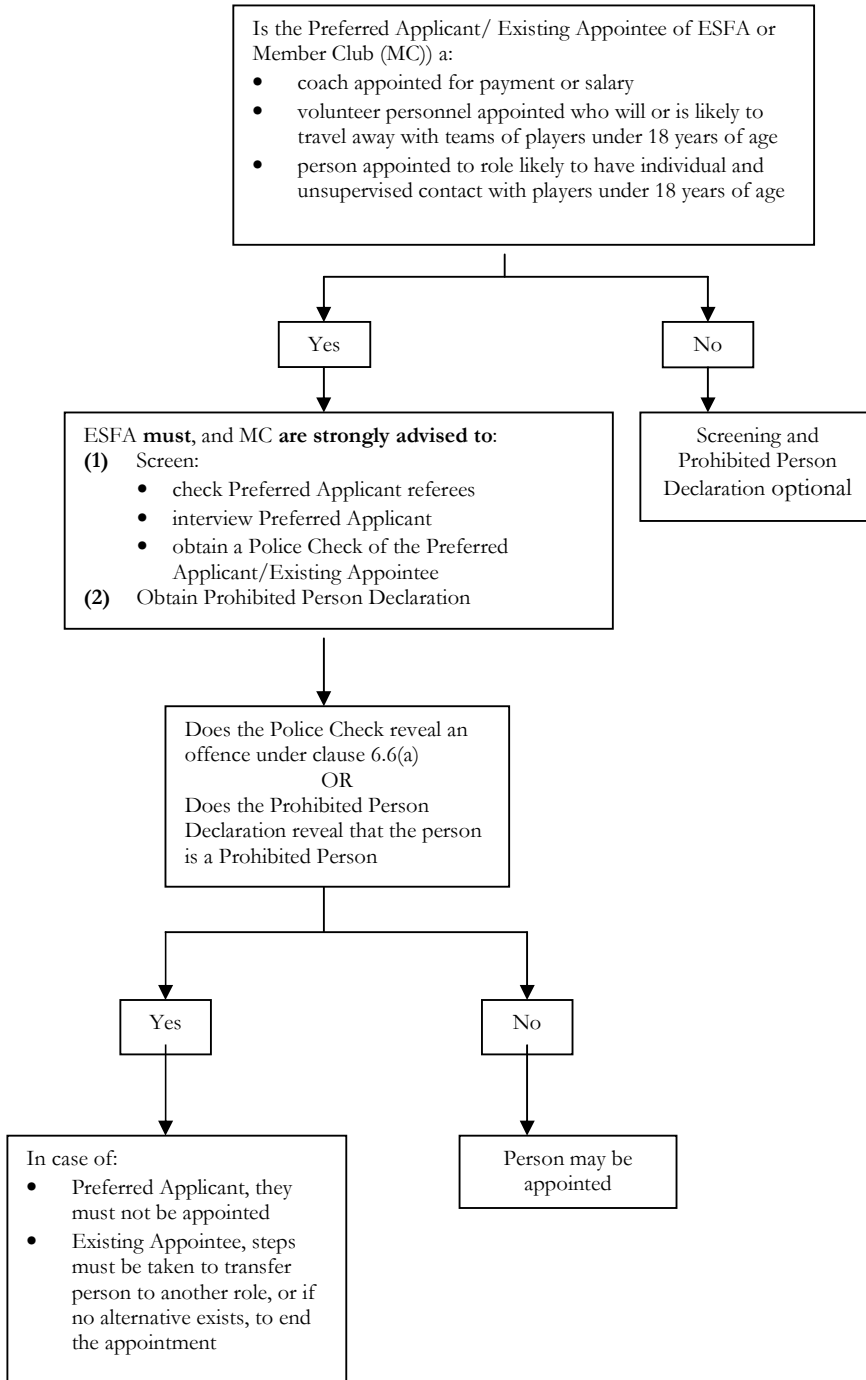
‘their Nominee’ means the person who is, under the constitution of the relevant organisation, empowered to act in the General Manager’s absence.

‘Vilification’ may constitute a form of Harassment or Discrimination, as more specifically set out in clause 8.18.

ATTACHMENT B

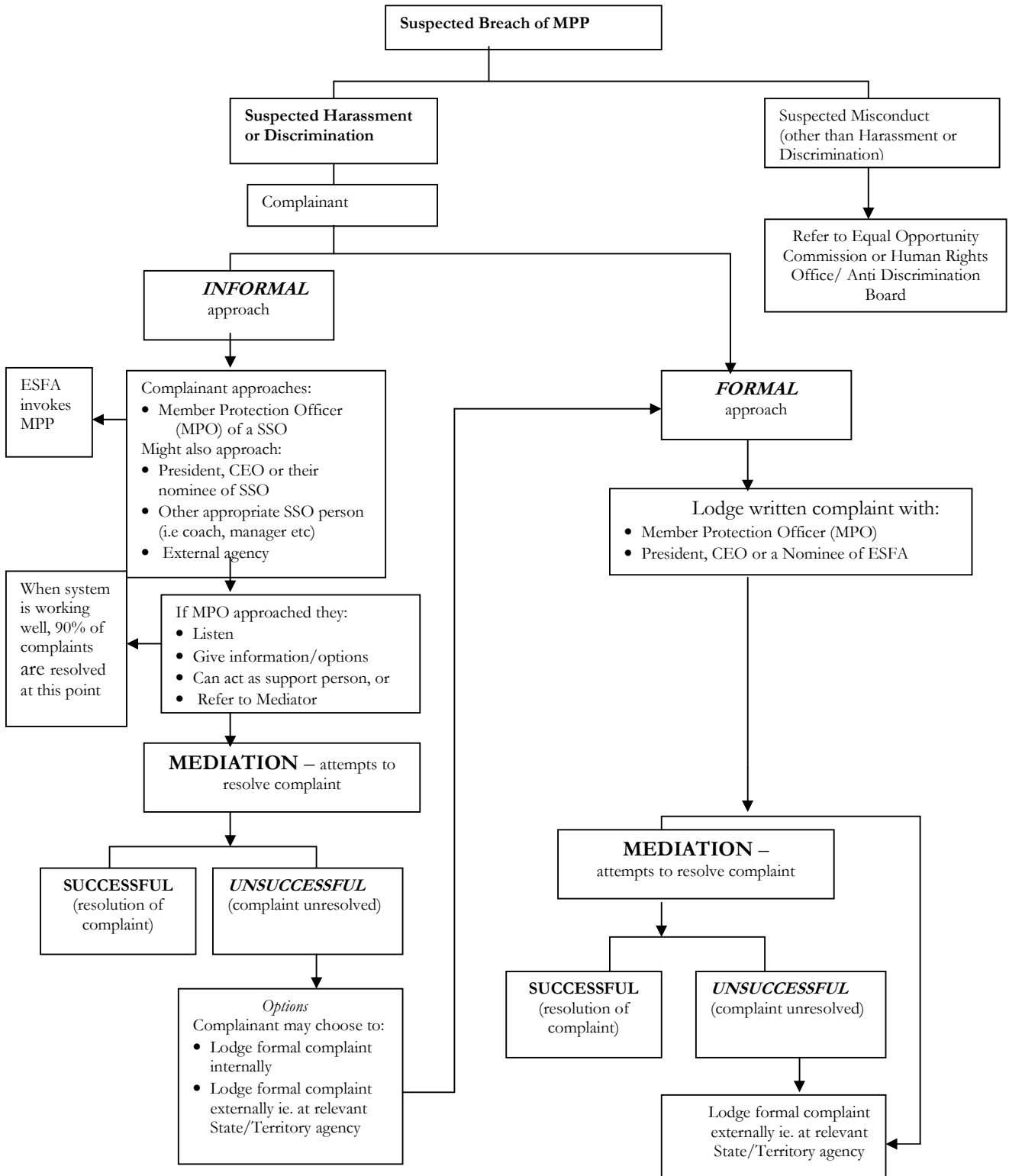
PREVENTATIVE ACTION (CLAUSES 6 AND 7) FLOW DIAGRAM

Attachment B has been included in this Policy by way of summary and it is not to be used for the interpretation of this Policy.



ATTACHMENT C

**COMPLAINT RESOLUTION PROCEDURE FOR SPORTING ORGANISATION
(clauses 14 and 15)**



ATTACHMENT D

General Code of Behaviour

ESFA endorses the following code of behaviour and conduct for all members and employees. All people falling into these categories must meet the following standard of conduct:

- Respect the rights, dignity and worth of others.
- Be fair, considerate and honest in all dealings with others.
- Be professional in, and accept responsibility for, your actions.
- Make a commitment to providing quality service.
- Be aware of, and maintain an uncompromising adherence to, ESFA standards, rules and policies.

ESFA expects all members and employees to abide by this code of conduct, which upholds the principles and values of the organisation. They should recognise that at all times they have a responsibility, and a duty of care to other members and employees of ESFA.

Specifically, they should:

- Understand the possible consequences of breaching the ESFA Member Protection Policy.
- Immediately report any breaches of the ESFA Member Protection policy to the appropriate authority.
- Refrain from any form of abuse towards others.
- Refrain from any form of harassment toward others.
- Refrain from any form of discrimination toward others.
- Refrain from intimate relations with members with whom they have a supervisory role or power over.
- Refrain from any form of victimisation toward others.
- Show concern and caution toward others that may be sick or injured.
- Be a positive role model.

Administrator Code of Behaviour

- Agree to abide by the code of behaviour.
- Be fair, considerate and honest with others.
- Operate within the rules of ESFA's Constitution and Playing Regulations.
- Be professional in their actions, language, presentation, manner and punctuality in order to reflect high standards.
- Maintain confidentiality in regards to sensitive and/or commercial information.
- Resolve conflicts fairly and promptly through established procedures.
- Maintain strict impartiality in matters relating to the Member Protection Policy.
- Maintain a safe environment for others.
- Show concern and caution towards others.
- Be a positive role model for others.
- Respect the rights, dignity and worth of every person regardless of age, gender, ability, cultural background, sexual orientation or religion.

Coach Code of Behaviour

- Agree to abide by the code of behaviour.
- Maintain a 'duty of care' towards others and accountability for matters relating to training and competition.
- Ensure that any physical contact with others is appropriate to the situation and necessary for the person's skill development.
- Provide a safe environment for training and competition.
- Be a positive role model.
- Display control, respect and professionalism to all involved with the sport. This includes opponents, coaches, officials, administrators, media, parents and spectators. Encourage your players to do the same.
- Show concern and caution to others.
- Respect the rights, dignity, and worth of all people regardless of age, gender, ability, cultural background, sexual orientation or religion.
- Operate within the rules of ESFA Constitution, Code of Conduct and Playing Regulations.

Player Code of Behaviour

(to be read in conjunction with the ESFA Code of Conduct for Players)

- Agree to abide by the code of behaviour.
- Play by the rules and Playing Regulations of ESFA.
- Act respectfully toward the officials of your own and opposing Clubs.
- Be a good sport.
- Treat all competitors in your sport as you like to be treated.
- Do not bully or take unfair advantage of another competitor.
- Cooperate with your coach, team mates and opponents.
- Respect the facilities and equipment of your own and opposing Clubs.
- Participate for your own enjoyment and benefit, not just to please parents and coaches.
- Respect the rights, dignity and worth of all involved with your sport regardless of age, gender, ability, cultural background, sexual orientation or religion.

Parent/Guardian Code of Behaviour

- Agree to abide by the code of behaviour.
- Remember your children participate in sport for their enjoyment, not yours.
- Encourage children to participate, do not force them.
- Focus on the child's efforts and performance rather than winning and losing.
- Encourage children always to play according to the rules and to settle disagreements without resorting to hostility or violence.
- Never ridicule or yell at a child for making a mistake or losing a game.
- Remember that children learn best by example. Appreciate good performances and skilful play by all participants.
- Respect officials' decisions and teach children to do likewise.
- Show appreciation for all coaches, officials and administrators. Without them, your child could not participate.
- Respect the rights, dignity and worth of all involved in the sport regardless of age, gender, ability, cultural background, sexual orientation or religion.

Official Code of Behaviour

- Agree to abide by the code of behaviour.
- Compliment and encourage all participants.
- Be consistent, objective and courteous when making decisions.
- Condemn unsporting behaviour and promote respect for all opponents.
- Encourage and promote any rule changes, which will make participation more enjoyable.
- Be a good sport yourself. Actions speak louder than words.
- Remember that you set an example. Your behaviour and comments should be positive and supportive.
- Place the safety and welfare of the participants above all else.
- Give all participants a 'fair go' regardless of age, gender, ability, cultural background, sexual orientation or religion.

Spectator Code of Behaviour

- Agree to abide by the code of behaviour.
- Remember that young people participate for their enjoyment and benefit, not yours.
- Applaud good performances and efforts from all individuals and teams. Congratulate all participants on their performance regardless of the game's outcome.
- Never ridicule or scold a player for making a mistake.
- Condemn the use of violence in any form.
- Show respect for all opponents. Without them there would be no competition.
- Respect the decisions of officials.
- Encourage competitors to follow the rules of ESFA and the officials' decisions.
- Do not use foul language, sledge or harass other competitors, coaches or officials.
- Respect the rights, dignity, and worth of all involved with ESFA regardless of age, gender, ability, cultural background, sexual orientation or religion.

ATTACHMENT E

PROHIBITED PERSON DECLARATION

The ESFA Member Protection Policy makes it a breach of the policy for a Prohibited Person (defined as a person who has been convicted of a Serious Sex Offence) to work or seek work in the following roles:

- coaches who are appointed or seeking appointment (whether employed, contracted or otherwise) for reward;
- volunteer personnel appointed or seeking appointment, who will or are likely to travel away with teams of players under 18 years of age; and
- persons appointed or seeking appointment to a role in which that person is likely to have individual and unsupervised contact with players under 18 years of age.

The ESFA Member Protection Policy also makes it a breach of the policy to appoint, or continue to appoint, a person to a role set out above:

- without first obtaining this declaration; or
- where this declaration reveals the person is a Prohibited Person.

The ESFA Member Protection Policy defines a Serious Sex Offence to mean an offence involving sexual activity or acts of indecency including but not limited to:

- 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
- 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.

Declaration

I am aware that I am ineligible to work or seek work in the roles set out above if I have been convicted of a Serious Sex Offence, as defined in the ESFA Member Protection Policy.

I have read and understood the above information in relation to the ESFA Member Protection Policy and understand my responsibilities and obligations under it.

I declare that I am not a person prohibited under the ESFA Member Protection Policy from working or seeking work in the roles set out above.

I acknowledge that I am required to advise the Operations Manager of ESFA immediately upon becoming a Prohibited Person.

| | | |
|------|-----------|------|
| Name | Signature | Date |
|------|-----------|------|

Note: Seek legal advice if you are unsure of your status.

Parent/Guardian Consent (in respect of person under the age of 18 years)

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

| | | |
|------|-----------|------|
| Name | Signature | Date |
|------|-----------|------|

**ATTACHMENT F
RECORD OF INFORMAL COMPLAINT POLICY BREACH**

Complainant's Name: _____

Position/Status within ESFA Inc and/or member club:

Aggrieved person's Name (if different to complainant): _____

Position/status with ESFA and/or member club:

Name of person allegedly in breach of the policy: (only to be completed in the event that complaint proceeds to formal complaint status under the membership protection policy)

Location/ event of alleged policy breach: _____

Nature of complaint of policy breach: _____

PROCEDURAL STEPS: COMMENTS -

1. Interview with aggrieved person _____

2. Interview with person allegedly in breach of policy _____

3. Confrontation of person allegedly in Breach of policy by aggrieved person alone _____

4. Confrontation of person allegedly in Breach of policy by aggrieved person in presence of support person _____

5. Confrontation of person allegedly in Breach of policy by support person _____

6. Mediation of complaint _____

7. Record of mediation must be completed _____

Finding _____

Action Taken _____

Signed:

Chief Executive

Date

**ATTACHMENT G
RECORD OF FORMAL COMPLAINT OF POLICY BREACH**

Complainant's Name _____

Position _____

Name of aggrieved person (if different to the complainant) _____

Respondent's name _____

Nature of alleged incident _____

Methods (if any) of attempted informal resolution _____

Support person _____

Formal resolution procedures followed **as per policy** _____

Complaint substantiated / unsubstantiated _____

Finding _____

Disciplinary action taken (if any) _____

Signed:

Representative ESFA and /or member club: _____

Aggrieved person: _____

Complainant: _____

Respondent: _____

**ATTACHMENT H
RECORD OF MEDIATION**

Present at mediation _____

Date of mediation _____

Location of mediation _____

Mediator _____

Minutes of mediation(attached)
(Add summary of mediation here)

Outcome of mediation _____

Signed:
Chief Executive: _____

Aggrieved person: _____

Member Protection Officer: _____

Complainant: _____

Respondent: _____

Date _____