

# RUGBY AU

# Code of Conduct

September 2021

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## **A. INTRODUCTION**

Rugby AU is committed to promoting and protecting the image and integrity of Rugby Union (**rugby**) and all of its participants in Australia and requires all those involved in rugby to act in accordance with the Game's core values of **Passion, Integrity, Discipline, Respect and Teamwork**.

The Rugby AU Code of Conduct (**Code**) sets out the behaviours that are expected of all those involved in rugby, including players, coaches, administrators, employees, contractors, directors, volunteers, parents and spectators in order to ensure that a safe, fair and inclusive environment is provided for all.

The Code also seeks to deter conduct that could damage the image and integrity of rugby by impairing public confidence in the sport or its Participants and sets out a harmonised approach to the handling and resolution of complaints, including the administration of a disciplinary process and the implementation of sanctions for Prohibited Conduct at all levels of the game in Australia<sup>1</sup>.

All Relevant Organisations are under an obligation to:

- (a) publish, distribute and promote the Code;
- (b) recognise and enforce any sanction imposed under the Code;
- (c) ensure that a copy of the Code is available or accessible to all people and organisations to whom the Code applies; and
- (d) appoint a person(s) that is responsible for the administration of the Code within their jurisdiction.

All Relevant Persons are under an obligation to:

- (a) make themselves aware of the contents of the Code;
- (b) comply with all relevant provisions of the Code;
- (c) be accountable for their behaviour;
- (d) cooperate with any requests for information and/or investigations commenced under the Code; and
- (e) comply with any decisions and/or disciplinary sanctions imposed under the Code.

All Relevant Organisations and Relevant Persons in the Game agree by virtue of their membership, employment or participation in rugby to be bound by all World Rugby Regulations, Bye-Laws and Laws of the Game etc. and to all Rugby AU's codes, policies and guidance<sup>2</sup> and that they shall have any sanctions imposed on them under this Code recognised and applied at all levels of the game, domestically and internationally. On-field disciplinary matters arising out of a sending off or citing under World Rugby Law 9 (Foul Play) are to be dealt with under the Rugby Australia Disciplinary Rules<sup>3</sup> and not under the Code.

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<sup>1</sup> The Rugby AU Professional Player Code of Conduct applies to all professional players in Australia.

<sup>2</sup> These can be found on the Rugby AU website:  
<https://australia.rugby/about/codes-and-policies/all-codes-and-policies>

<sup>3</sup> These can be found on the Rugby AU website.

## **1. DEFINITIONS**

In the Code the following words have the corresponding meaning:

**Activity** means a rugby contest, match, competition, tournament, event, or rugby related activity (including training), whether on a one-off basis or as part of a series, league, competition, tournament sanctioned or organised by a Relevant Organisation.

**Appeal Committee** means the tribunal established in accordance with clause 14.

**Appeal Fee** means the sum of money a Relevant Person or Relevant Organisation shall be required to pay to the Relevant Organisation with jurisdiction for the convened hearing in order for a Committee Decision, or decision of an Appointed Person to take no further action regarding a complaint, to be appealed. Where a Relevant Organisation does not stipulate the amount, the default amount is \$250.

**Appointed Person** means the person(s) appointed by a Relevant Organisation that is responsible for the administration of the Code within their jurisdiction.

**Bullying** means a person or group of people repeatedly and intentionally using words or actions, or the inappropriate use of power, against a person or a group of people that causes distress and/or a risk to their wellbeing.

**Bye-Laws** means the bye-laws published and amended by World Rugby from time to time.

**Club** means any club that enters a Team to participate in an Activity.

**Code or Code of Conduct** means the Rugby Australia Code of Conduct.

**Code of Conduct Committee** means the tribunal established in accordance with clause 11.

**Contractor** means any person or organisation engaged to provide services for or on behalf of a Relevant Organisation, and includes agents, advisers, and subcontractors of a Relevant Organisation and employees, officers, volunteers, and agents of a contractor or subcontractor.

**Discriminatory** means treating a person or group of people less favourably than another person or group, because of a personal characteristic.

**Employee** means a person employed by a Relevant Organisation.

**Game** means rugby union.

**Harassment** means any type of behaviour towards a person that they do not want and is offensive, abusive, belittling or threatening and is reasonably likely to cause harm to the person who is the subject of the harassment.

**Homophobic** means having or showing a dislike of or prejudice against gay people.

**Individual Member** means an individual that is registered with or a member of a Relevant Organisation.

**Judicial Committee** means a tribunal convened under the Rugby Australia Disciplinary Rules.

**Laws of the Game** means the laws of the Game published and amended by World Rugby from time to time.

**Long-Term Sanction** means a suspension from participating in the Game of eight years or more.

**Member** means a Relevant Organisation or an Individual Member.

**Participant means:**

- (a) **Players** that are registered with or entitled to participate with a Relevant Organisation or in a rugby Activity;
- (b) **Coaches** appointed to train a Player or Team in a Relevant Organisation or in a rugby Activity;
- (c) **Administrators** that have a role in the administration or operation of a Relevant Organisation or in a rugby Activity, including owners, directors, committee members or other persons;
- (d) **Officials** including referees, citing commissioners, television match officials, or other officials appointed by a Relevant Organisation or any league, competition, series, Club or Team sanctioned by a Relevant Organisation; and
- (e) **Support Personnel** that are appointed in a professional or voluntary capacity by a Relevant Organisation or in a rugby Activity including, but not limited to, sports science sport medicine personnel, Team managers, agents, selectors, and Team staff members.
- (f) **Other individuals** that attend rugby Activities or facilities, for example, parents, guardians, spectators and sponsors.

**Player** means an individual that plays the Game.

**Prohibited Conduct** means the conduct proscribed at clauses 4 and 5.

**Racist** means prejudiced against or antagonistic towards a person or people on the basis of their membership of a particular racial or ethnic group.

**Relevant Organisation** means any of the following organisations:

- (a) **Rugby AU;**
- (b) **Member Unions**<sup>4</sup>;
- (c) **Affiliated Unions**<sup>5</sup>;
- (d) **Rugby Bodies**<sup>6</sup>; and
- (e) **Any other organisation** that has agreed to be bound by this Code.

**Relevant Person** means any of the following persons:

- (a) **Individual Member**
- (b) **Participant;**
- (c) **Employee;**
- (d) **Contractor;**

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<sup>4</sup> Member Unions include Australian Capital Territory Rugby Union; New South Wales Rugby Union; Northern Territory Rugby Union; Queensland Rugby Union; South Australia Rugby Union; Tasmanian Rugby Union; Victorian Rugby Union; Western Australia Rugby Union.

<sup>5</sup> The Affiliated Unions include Australian Junior Rugby Football Union Ltd; Australian Rugby Football Schools Union; Australian Defence Force Rugby Union; Australian Universities Rugby Union; Australian Barbarian Rugby Club; Australian Women's Rugby Football Union; Classic Wallabies; NSW Country Rugby Union; Sydney Rugby Union and any other body that is or becomes an "Affiliated Union" pursuant to the terms of the Rugby AU Constitution, as amended from time to time.

<sup>6</sup> Rugby Body means Rugby AU, each Member Union and Affiliated Union, any union, association or other body in membership with or affiliated to a Member Union or Affiliated Union and any rugby Club in membership with or affiliated to any of the foregoing.

- (e) **Volunteer**, which means any person engaged by a Relevant Organisation or in a rugby Activity in any capacity who is not otherwise an Employee or Contractor, including directors and office holders, coaches, officials, administrators and Team and support personnel; and
- (f) **Any other individual** who has agreed to be bound by this Code.

**Regulations** means the regulations published and amended by World Rugby from time to time.

**Rugby AU** means Rugby Australia Ltd (ACN 002 898 544).

**Sexist** means discrimination, prejudice, or stereotyping based on gender.

**Team** means a collection or squad of Players who compete and/or train in a rugby activity.

**Transphobic** means having or showing a dislike of or prejudice against transgender people.

**Victimisation** means subjecting a person, or threatening to subject a person, to any unfair treatment because the person has made, or intends to pursue their right to make, a complaint or lawful disclosure, including under applicable legislation or the Code, or for supporting another person to take such action.

**Vilification** means a public act, conduct or behaviour that incites hatred, serious contempt for, or revulsion or severe ridicule of, a person or group of people because of a particular characteristic they hold, as covered by applicable legislation, including their race or religion, or homosexuality, transgender or HIV/AIDS status.

## **2. OBJECTS OF THE CODE**

- 2.1 The Code aims to ensure that Rugby AU's expected standards of behaviour are maintained by Relevant Persons and Relevant Organisations at all times by:
- (a) setting out the standards of behaviour that every Relevant Organisation and Relevant Person must adhere to;
  - (b) seeking to deter conduct that could damage the image and integrity of the Game by impairing public confidence in it or its Relevant Persons or Relevant Organisations; and
  - (c) providing a mechanism for compliant handling and the resolution of any alleged Prohibited Conduct.

## **3. JURISDICTION**

### **3.1 Who the Code applies to**

This Code applies to:

- (a) Relevant Persons; and
- (b) Relevant Organisations.

### **3.2 When the Code applies**

- (a) All Relevant Persons and Relevant Organisations must comply with this Code at all times whilst they are a Relevant Person or Relevant Organisation, including:
  - (i) in relation to any dealings they have with any Relevant Organisations or their staff, contractors and representatives;

- (ii) subject to clause 3.2(b), wherever there is a direct link or connection to any Relevant Organisation or rugby, including participation in Activities, and on social media where there is such a link or connection;
  - (iii) when dealing with another Relevant Person in their capacity as a Relevant Person; and
  - (iv) in relation to their membership or standing as a Relevant Person in general.
- (b) The following is not within the scope of this Code:
- (i) where an interaction (including social media interactions) occurs involving one or more Relevant Persons or Relevant Organisations, and the only link or connection between the interaction and rugby is the fact that one or more individuals are Relevant Persons or Relevant Organisations<sup>7</sup>;
  - (ii) where Prohibited Conduct occurs in contravention of this Code, any subsequent conduct or interaction(s) that, whilst related to the original Prohibited Conduct, no longer directly relates to rugby (even where such conduct or interaction(s) would otherwise be Prohibited Conduct)<sup>8</sup>; and
  - (iii) where the Relevant Organisation determines, in its absolute discretion, that the alleged Prohibited Conduct would be more appropriately dealt with under a different Rugby AU policy, code, guidance document or other organisation.

#### **4. EXPECTED STANDARDS OF BEHAVIOUR**

4.1 Relevant Persons and Relevant Organisations must, at all times, in the circumstances outlined in clause 3.2:

- (a) act and operate in accordance with all World Rugby Regulations, Bye-Laws and Laws of the Game etc. and with all Rugby AU's codes, policies and guidelines<sup>9</sup> in force from time to time;
- (b) treat all other Relevant Persons and Relevant Organisation's representatives, members and other stakeholders with courtesy, respect, dignity and have proper regard for their rights and obligations;
- (c) be ethical, considerate, fair and honest in all dealings with other Relevant Persons or other individuals within or related to a Relevant Organisation;
- (d) be professional and accountable in, and accept responsibility for, their behaviours and actions;
- (e) act with honesty, integrity and objectivity;

<sup>7</sup> For example, two Relevant Persons getting into a verbal or physical argument at a shopping centre, or two Relevant Persons sending abusive social media messages to each other that have no direct link to rugby.

<sup>8</sup> For example, where a Relevant Person allegedly breaches this Code by physically assaulting another Relevant Person at a match, but then the personal grievance(s) between those two individuals spills into issues not directly related to rugby, such as social media abuse or trolling.

<sup>9</sup> A full list of all Rugby AU's codes, policies and guidelines can be found at: <https://australia.rugby/about/codes-and-policies/all-codes-and-policies>

- (f) maintain appropriate, professional relationships with other Relevant Persons or other individuals within or related to a Relevant Organisation at all times;
- (g) not engage in, or encourage, any conduct that is unbecoming of themselves, any Relevant Organisation, or is otherwise harmful to the interests of any Relevant Organisation in any way;
- (h) act with care and diligence to safeguard the health and safety of themselves, other Relevant Persons and Relevant Organisation's staff, members and representatives, and ensure that their decisions and actions contribute to a safe environment within rugby;
- (i) provide a safe environment for the conduct of any Activities<sup>10</sup> in accordance with any Relevant Organisation's codes, policies or guidelines;
- (j) respect and protect confidential information obtained through Activities, whether regarding an individual's or organisation's information;
- (k) comply with all reasonable directions of, and accept all decisions of any Relevant Organisation's representatives;
- (l) ensure that physical contact with others is objectively appropriate to the situation;
- (m) not display or transmit, or cause to be displayed or transmitted, offensive or inappropriate material or messages;
- (n) not engage in behaviour, including contact via social media or other electronic means, that negatively affects the experience, safety or wellbeing of any Relevant Organisation's representatives, members, or other patrons, including behaviour that is:
  - (i) critical, offensive or discriminatory;
  - (ii) bullying or harassing;
  - (iii) sexist, racist or homophobic/transphobic;
  - (iv) intimidating, threatening or aggressive;
  - (v) drunk and disorderly;
  - (vi) unwelcome or uninvited physical contact;
  - (vii) continued or unreasonable disruption of any Relevant Organisation's representatives performing their duties; or
  - (viii) unlawful or unsafe.
- (o) not undertake any behaviour prohibited by a venue's ticketing or entry conditions, at, in or around that venue at which a rugby Activity is taking place;
- (p) not behave in a manner that constitutes physical, emotional, racial, religious or sexual harassment towards any Relevant Person or Relevant Organisation's staff, members or representatives;

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<sup>10</sup> Including ensuring that all required accreditations are obtained and kept up-to date, for example, coaching and officiating.



- (q) not behave in a manner that constitutes domestic violence;
- (r) not commit any acts of violence or intimidation within the venue in which the Match is being played including (without limitation) the tunnel, changing rooms and/or warm-up areas;
- (s) not make comments towards any Relevant Person or Relevant Organisation's representatives, whether in person or by email, text, social media, or other means that are (or could reasonably be interpreted as being) threatening, Discriminatory, Racist, Homophobic/Transphobic, Sexist, Bullying, Harassment or Vilification, or otherwise inappropriate;
- (t) not behave in a manner that creates a public nuisance and/or disturbance within or around a venue at which a rugby Activity is taking place;
- (u) not bully or intimidate any Relevant Person or Relevant Organisation's staff, members or representatives;
- (v) not publish, or encourage the publication of, offensive, hateful or distressing material on social media (such as tweeting or re-tweeting an indecent or offensive comment) in relation to or towards any Relevant Person or Relevant Organisation's staff, members or representatives;
- (w) not be in the possession or under the influence of an illegal or illicit drug, at, in or around a venue at which a rugby Activity is taking place/has taken place;
- (x) accept and respect the authority of match officials and refrain from using any offensive language or behaviour, show unnecessary dissension, displeasure or disapproval towards a match official, whether on or off the field of play or any other official from a Relevant Organisation;
- (y) not act in any other manner that is or maybe prejudicial to the interests of any Relevant Organisation or the game or otherwise brings or may bring the game into disrepute; and
- (z) assist in any investigation or proceedings<sup>11</sup> instituted following an alleged breach of the Code and ensure that they do not provide any inaccurate and/or misleading information during the course of any investigation or proceedings instituted following an alleged breach of this Code or in relation to any other disciplinary proceedings.

## **5. PROHIBITED CONDUCT**

- 5.1 A Relevant Person or Relevant Organisation commits a breach this Code when they, either alone or in conjunction with another, engage in any of the conduct against one or more Relevant Persons or Relevant Organisations, in the circumstances outlined in clause 4;
- 5.2 A general obligation arises on all Relevant Organisations to address all Prohibited Conduct within their jurisdictions to ensure that discipline, control, honesty and mutual respect that are fundamental to the image and integrity of rugby are preserved.

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<sup>11</sup> Including the provision of any information, records or other material reasonable required for the purposes of any investigation or proceedings instituted following an alleged breach(es) of this Code.

## **6. REPORTING AND COMPLAINT HANDLING**

- 6.1 Each Relevant Organisation shall appoint a person (**Appointed Person**) that is responsible for the administration of the Code within their jurisdiction.<sup>12</sup>
- 6.2 Complaints with respect to an alleged breach of this Code shall be submitted to a Relevant Organisation in writing, via the Rugby AU website<sup>13</sup> and the lowest level at which a matter can be dealt with shall always be preferred. Therefore, subject to clause 6.3, if a complaint relates to behaviour or an incident that occurred at:
- (a) state or territory level or involves people operating at the state or territory level, then the complaint shall be reported to and handled by the relevant Member Union<sup>14</sup>;
  - (b) district or competition level, or involves people operating at the district or competition level, that district or competition association; or
  - (c) Club level or involves people operating at the Club level, then the complaint shall be reported to and handled by the relevant Club in the first instance.
- 6.3 Where there is real or perceived conflict of interest issue raised regarding a matter being dealt with at a particular level, the decision with regards to which Relevant Organisation shall handle the matter shall be determined by the Relevant Organisation at the level immediately above the level where the real or perceived conflict has arisen.
- 6.4 Only complaints that relate to alleged conduct at the national level and the most serious cases from Club and state/territory level should be referred to Rugby AU. Where Rugby AU determines at its discretion that the matter does not meet that threshold, the matter will be referred by Rugby AU to the most appropriate level to be dealt with.
- 6.7 Each Relevant Organisation shall operate complaint handling procedures in a fair, just and transparent manner and in-line with the following principles:
- (a) treat complaints seriously;
  - (b) act promptly;
  - (c) treat people fairly and listen to all accounts of the event;
  - (d) stay neutral;
  - (e) keep parties to the complaint informed;
  - (f) use all efforts to maintain confidentiality where possible;
  - (g) protect against Victimisation;
  - (h) keep accurate records;
  - (i) make decisions based only on information gathered not personal views; and
  - (j) recommendations of disciplinary action should be proportionate to the alleged breach.

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<sup>12</sup> A Relevant Organisation may appoint more than one Appointed Person if required.

<sup>13</sup> <https://australia.rugby/about/codes-and-policies/reporting-a-concern>

<sup>14</sup> Member Unions include Australian Capital Territory Rugby Union; New South Wales Rugby Union; Northern Territory Rugby Union; Queensland Rugby Union; South Australia Rugby Union; Tasmanian Rugby Union; Victorian Rugby Union; Western Australia Rugby Union.

## **7. INVESTIGATIONS**

- 7.1 The Appointed Person shall be responsible for determining whether a complaint is in scope and if so, shall be entitled to undertake any such investigations as they consider necessary into any acts that constitute, or may be capable of constituting, Prohibited Conduct involving any Relevant Person or Relevant Organisation. The Appointed Person may in turn appoint an investigating officer with suitable expertise or experience in conducting investigations to undertake an investigation on behalf of their Relevant Organisation if required. If appointed, the investigating officer will have power to investigate any alleged breach(es) of the Code by a Relevant Persons or a Relevant Organisation.
- 7.2 Where the Appointed Person determines (following an investigation or otherwise) that a complaint falls outside the scope of the Code then the complainant should be advised that the matter is out of scope and they should consider reporting the matter to other relevant authorities.
- 7.3 Where the Appointed Person determines (following an investigation or otherwise) that information should be referred to another appropriate authority, for example in a child safeguarding matter where the law or code, policy or guidance may require that the complaint/allegation be reported to an appropriate authority, then the matter should be referred to such authority at the earliest possible opportunity and any further action in relation to the matter should promptly be suspended whilst advice is sought from the appropriate authority.
- 7.4 Where a complaint has been received by a Relevant Organisation that involves an allegation of Prohibited Conduct or the commission of a criminal act by a Relevant Person under its jurisdiction that has led to serious harm or serious financial loss to another person or organisation *or* there is an identified ongoing risk or danger of harm to another person(s), then the Appointed Person has the power, after taking into account any oral or written material put by or on behalf of the person the subject of the complaint, to impose a provisional suspension/measures, including standing down an alleged offending Relevant Person from any role, duties or involvement in any rugby Activity pending the outcome of an investigation and/or proceedings relating to any alleged breach(es) of the Code or the commission of a criminal act. This decision may be on an interim basis and can be reviewed by the Appointed Person if considered appropriate to do so.
- 7.5 After conducting an assessment of a complaint and/or having had the matter investigated, the Appointed Person shall make a determination as to whether a breach notice should be served on the Relevant Person or Relevant Organisation to whom the complaint relates (**respondent**) or whether no further action shall be taken.
- 7.6 If it is decided that no further action shall be taken, then the Appointed Person (or his/her delegee) shall notify the complainant of the decision and the reasons for it.
- 7.7 A complainant may only seek a review of a decision under clause 7.5 to take no further action by providing a notice (including grounds) in writing to the Relevant Organisation that has made the decision to take no further action. Only in circumstances where the CEO or President (or their nominee) of the Relevant Organisation determines in their absolute discretion that the complaint is within the scope of the Code and there has been gross inadequacy in the investigation process *or* that a gross miscarriage of justice or procedural fairness has occurred, will the CEO or President (or their nominee) determine that the matter should be reviewed by the Appointed Person.

Procedural irregularities or minor defects will not in itself amount to gross inadequacy in the investigation process or gross miscarriage of justice or procedural fairness.

## **8. BREACH NOTICE**

- 8.1 Where an Appointed Person has made a determination that a breach notice should be served on the respondent, then the Appointed Person shall issue the respondent with a breach notice (either in the form provided in **Appendix 1** or in a form provided by Relevant Organisation) that will:
- (a) notify the respondent of the alleged breach(es) of the Code, including the alleged conduct and the relevant section(s) of the relevant code, policy or guideline;
  - (b) state the proposed sanction for the alleged breach(es) with reasons for such determination, and if applicable, any proposed discounted sanction for early admission;
  - (c) state that the conduct and sanction may be publicly disclosed;
  - (d) state that the respondent has a right to a hearing in relation to the alleged breach(es) and/or the proposed sanction before a Code of Conduct Committee;
  - (e) state that the respondent may admit the alleged breach(es), waive their right to a hearing and accept the proposed sanction or the proposed discounted sanction (if applicable);
  - (f) state that if the respondent does not respond within 14 days from the breach notice having been sent to the respondent's last known home and/or email address, they will be deemed to have admitted the alleged breach(es), waived their right to a hearing and accepted the proposed sanction;
  - (g) state that any response to the breach notice must be made to the Relevant Organisation and provide the respondent with contact details for the Appointed Person; and
  - (h) be provided to the complainant and any other Relevant Person and/or Relevant Organisation that the Appointed Person, acting in good faith, deems necessary and appropriate.

## **9. RESOLUTION WITHOUT A HEARING**

- 9.1 Where a respondent admits the alleged breach(es), waives their right to a hearing and accepts the proposed sanction or the proposed discounted sanction (if applicable), or is deemed to have done so, the Appointed Person must take all necessary steps to impose and implement the sanction and proceed to finalising the complaint.

## **10. RESOLUTION AT A HEARING**

- 10.1 Each Relevant Organisation will appoint a panel of individuals (**Code of Conduct Panel**) of such number as it sees fit, each of whom can be selected to sit as a member of a Code of Conduct Committee. (Such individuals may also sit on Judicial Committees constituted under the Rugby Australia Disciplinary Rules or to hear matters arising under other constituent documents).
- 10.2 The relevant Rugby Organisation will convene a Code of Conduct Committee when required to:

- (a) determine whether any provisional suspension/measures imposed in accordance with clause 7.4 are disproportionate; and
  - (b) arbitrate any alleged breach(es) of Code and determine whether a sanction be imposed, and if so, what sanction is appropriate in accordance with clause 13.
- 10.3 The procedures that the Code of Conduct Committee shall comply with are set out in clause 12.

## **11. CODE OF CONDUCT COMMITTEE**

- 11.1 Where a Code of Conduct Committee is required to deal with a matter in accordance with clause 10.2, it shall, subject to clause 11.2, be made up of three members of Code of Conduct Panel. The Code of Conduct Committee shall be chaired by:
- (a) a current or retired legal practitioner of at least three years standing or a serving or retired judge, with appropriate rugby experience; or
  - (b) persons with appropriate training or experience as defined by the Relevant Organisation responsible for handling the matter;
- and shall meet any additional requirements, including training qualifications, prescribed by the Relevant Organisation.
- 11.2 Where circumstances make it a necessity, a Code of Committee may be formed by less than three members so long as the chairperson meets the appointment criteria as set out in clause 11.1.
- 11.3 Where a Code of Conduct Committee is required to deal with a matter involving a respondent that is under the age of 18 years of age or involving a matter where witnesses are under 18 years of age, consideration shall be given by the Relevant Organisation to ensure that the proceedings are ideally conducted by people that have professional experience in dealing with young persons and are equipped to provide a comfortable and safe environment with the appropriate level of informality.
- 11.4 The Code of Conduct Committee shall act independently, impartially and fairly. A member of the Code of Conduct Committee that has a conflict of interest in dealing with a matter before the Code of Conduct Committee should disclose the conflict and act in such a manner as he/she and/or the Code of Conduct Committee considers appropriate including, if necessary and appropriate in the circumstances, by withdrawing from participation in the hearing.
- 11.5 The Code of Conduct Committee shall have the power to:
- (a) commence and conduct a hearing where there is an alleged breach of the Code;
  - (b) request that any Relevant Person, representative from any Relevant Organisation or any other person attend a hearing and give evidence under the Code;
  - (d) make a final determination under the Code; and
  - (e) issue any sanction, subject to the guidelines contained in the Code.

- 11.6 The decisions of Code of Conduct Committees shall be made by majority. In the event of an equality of votes on any question, the chairperson of the Code of Conduct Committee will have both the deciding and casting vote.

## **12. PROCEDURE OF THE CODE OF CONDUCT COMMITTEE**

- 12.1 Where the Code of Conduct Committee has been convened to deal with a matter, the Appointed Person, after having consulted with the Code of Conduct Committee, shall issue a hearing notice to the Relevant Person or Relevant Organisation containing the following information:
- (a) the date, time and location of the Code of Conduct Committee hearing;
  - (b) the identity of the members of the Code of Conduct Committee;
  - (c) the requirement for the Relevant Person or Relevant Organisation that is the subject of the proceedings to attend at the Code of Conduct Committee hearing at a scheduled time/date so that the allegations can be determined;
  - (d) the requirement for the Relevant Person or Relevant Organisation that is unable to attend the hearing at the scheduled time/date to advise the Code of Conduct Committee as soon as practicable and provide the reasons as to why they are unable to attend as required;
  - (e) the right for the Relevant Person or Relevant Organisation to be represented in relation to the alleged breach(es) if required; and
  - (f) the right for the Relevant Person or Relevant Organisation to produce evidence and make submissions in relation to the alleged breaches and sanctions available to be imposed upon them by the Code of Conduct Committee.
- 12.2 Subject to the following guidelines, the Code of Conduct Committee has the power to regulate its own procedure, and:
- (a) to the extent practicable, the Code of Conduct Committee shall endeavour to conduct the hearing within fourteen days from the day the Code of Conduct Committee is convened;
  - (b) hearings should be conducted with as little formality and with as much expedition, as permitted by the nature of the matter;
  - (c) the hearing shall observe the principles of procedural fairness at all times;
  - (d) the Code of Conduct Committee shall have the discretion as to who can attend in addition to the parties to the hearing and their representatives;
  - (e) the parties shall have the right to be represented at the hearing by a legal practitioner at their own expense;
  - (f) the hearing shall be in private, unless the Code of Conduct Committee determines otherwise; and
  - (g) the decision must be timely, written and reasoned.
- 12.3 The Code of Conduct Committee is entitled to call on experts to provide specialist advice where required, including legal advice.

- 12.4 The Code of Conduct Committee has the discretion to hear and receive evidence as it thinks fit.
- 12.5 The Code of Conduct Committee will seek to ensure that proceedings are heard in the presence of the alleged offending Relevant Person or Relevant Organisation that is the subject of the proceedings (in person or via audio/visual technology), but nothing in this Code or otherwise prevents a Code of Conduct Committee hearing and determining proceedings in the absence of the alleged offending Relevant Person or Relevant Organisation, where it is satisfied that written notice of the hearing and their required attendance has been provided to them. In such circumstances, the Code of Conduct Committee may take any written representations made by or on behalf of the alleged offending Relevant Person or Relevant Organisation into account in making its decision.
- 12.6 Without derogating from the Code of Conduct Committee's power under clause 12.5, where an alleged offending Relevant Person or Relevant Organisation fails, without reasonable excuse, to attend the meeting of the Code of Conduct Committee, the Code of Conduct Committee may suspend the Relevant Person or Relevant Organisation from participation in any rugby activity until such time as they attend a hearing on a revised date set by the Code of Conduct Committee. The Code of Conduct Committee may impose any such additional sanctions as it considers appropriate as penalty for the Relevant Person's or Relevant Organisation's failure to attend as required.
- 12.7 In any case where a witness is requested to attend to give evidence before the Code of Conduct Committee and refuses or fails to attend, the Code of Conduct Committee may decide whether or not to allow the evidence of that witness to be given in any other form and to determine the weight to be given to that evidence.
- 12.8 The burden of proof before the Code of Code Committee will be on the Relevant Organisation that has issued the breach notice to the respondent and the outcome will be determined on the balance of probabilities.<sup>15</sup>
- 12.9 The Relevant Organisation convening the hearing must ordinarily bear the cost of holding the hearing, including the travel, accommodation and expenses of the Code of Conduct Committee members and other witnesses or experts called by the Relevant Organisation or the Code of Conduct Committee, as well as any costs of interpretation, recording and/or transcription.
- 12.10 The respondent shall be required to meet their own costs, including travel/accommodation and expenses of their representatives and their witnesses (who are not the witnesses called by the Relevant Organisation convening the hearing or the Code of Conduct Committee), as well as any legal costs incurred.
- 12.11 In exercising its jurisdiction, the Code of Conduct Committee shall have the power to:
- (a) determine that an alleged breach(es) of the Code has been found proven and impose a suitable sanction in accordance with clause 13;
  - (b) determine that an alleged breach(es) of the Code has not been found proven and issue no sanction; and/or

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<sup>15</sup> It is recommended that the Relevant Organisation that has issued the breach notice appoint a person to present the matter to the Code of Conduct Committee and, where considered necessary and appropriate in the circumstances, appoint a legal practitioner to present the matter in accordance with clause 12.2(e).

- (c) determine that a breach(es) of the Code other than what is set out in the breach notice issued to the respondent has been found proven and issue an appropriate sanction, provided that the Code of Conduct Committee has put the respondent on notice and allowed the respondent a reasonable opportunity to make submissions and provide any relevant evidence in relation to the new alleged breach(es);
- (d) deliver a short oral decision at the conclusion of the hearing with its reasons to be put in writing and communicated to the parties at a later date, or it may reserve its decision.

12.12 The decision of the Code of Conduct Committee must be advised to the parties and the complainant in writing as soon as practicable after the conclusion of the hearing (**Committee Decision**). This may be done by the Appointed Person or his/her delegee.

12.13 In all cases where a respondent is subjected to a sanction by the Code of Conduct Committee in accordance with clause 13, the respondent must be advised that they have a right of appeal to the Appeal Committee in accordance with clause 14.

### **13. SANCTIONING PROCESS**

13.1 Having regard to the factors set out in clause 13.2, the Code of Conduct Committee shall determine the seriousness of the breach(es) committed by the Relevant Person or Relevant Organisation.

#### **Factors**

13.2 The Code of Conduct Committee will have regard to:

- (a) the nature and gravity of the breach(es) and the impact of the offending on any Relevant Person or Relevant Organisation;
- (b) the degree to which the conduct the Relevant Person's or Relevant Organisation's conduct was intentional;
- (c) the degree to which the consequences of the conduct were reasonably foreseeable at the time the conduct took place;
- (d) the degree to which the behaviour or conduct may have caused offence to the general public's sensibilities;
- (e) the degree to which the conduct impacted on the integrity of a rugby Activity;
- (f) the degree to which the conduct caused reputational damage to any Relevant Person, Relevant Person or rugby Activity;
- (g) any other factor that the Code of Conduct Committee determines is relevant to the circumstances of the case.

#### **Sanctions**

13.3 The Code of Conduct Committee is entitled to impose any such sanction(s) as it deems appropriate on any Relevant Person or Relevant Organisation, including:

- (a) a reprimand and/or warning as to future conduct;
- (b) a direction to provide a verbal or written apology;



- (c) a direction to undertake a training/education/counselling session(s) to address their behaviour;
- (d) the payment of a fine and/or compensation;
- (e) a suspended sanction and/or good behaviour period;
- (f) placing conditions on or the removal of accreditation;
- (g) removal or withdrawal of awards or achievements (such as life membership);
- (h) suspension from membership from a Relevant Organisation;
- (i) suspension or exclusion from specific or all rugby activities for a set period of time (for example: from playing, officiating, coaching and/or administration of the Game);
- (j) a deduction or cancellation of points, or any similar competition or tournament-based sanction including expulsion from the remainder of a competition, tournament and/or series of matches;
- (k) exclusion orders from a Relevant Organisation's grounds/facilities;
- (l) the withdrawal of other benefits of membership with the Relevant Organisation and/or
- (m) any combination of the above or such other sanction that may be appropriate.

*Aggravating and/or Mitigating Factors*

13.4 In determining the appropriate sanction(s), the Code of Conduct Committee shall have regard to any relevant aggravating and mitigating factors, including the following:

- (a) the presence and timing of an acknowledgement of culpability/ wrong-doing by the Relevant Person or Relevant Organisation;
- (b) the Relevant Person's or Relevant Organisation's disciplinary record and/or good character;
- (c) the conduct prior to and at the hearing;
- (d) remorse for the conduct including the timing of such remorse including any steps taken to rectify any wrongdoing;
- (e) any directives from a Relevant Organisation regarding match official abuse<sup>16</sup>; and
- (f) any other aggravating and/or mitigating factors considered relevant by the Code of Conduct Committee.

**14. APPEAL PROCEDURES**

14.1 Each Relevant Organisation shall appoint a panel of individuals (**Appeal Panel**) of such number as it sees fit, each of whom can be selected to sit as members of an Appeal Committee. Such individuals may, subject to clause 14.4, also be included on the Relevant Organisation's Code of Conduct Panel or sit on Judicial Committees

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<sup>16</sup> Match Official abuse can take many forms, ranging from disrespect, causing offense, to causing someone physical or mental pain or distress.

constituted under the Rugby Australia Disciplinary Rules or to hear matters arising under other constituent documents.

- 14.2 Subject to clause 14.6, an Appeal Committee appointed to adjudicate on a case shall be comprised of no less than three members of the Appeal Panel. The Appeal Committee shall be chaired by a current or retired legal practitioner of at least three years standing or a serving or retired judge, with appropriate rugby experience as a Code of Conduct or Judicial Committee chairperson and shall meet any additional requirements, including training qualifications, prescribed by the Relevant Organisation with jurisdiction of the matter.
- 14.3 The decisions of Appeal Committees shall be made by majority. In the event of an equality of votes on any question, the chairperson of the Appeal Committee will have both the deciding and casting vote.
- 14.4 The Appeal Committee shall act independently, impartially and fairly. A member of the Appeal Committee who has a conflict of interest in dealing with the matter before the Appeal Committee shall disclose the conflict and act in such a manner as he/she and/or the Appeal Committee considers appropriate (including, if necessary or appropriate in the circumstances, by withdrawing from participation in the hearing).
- 14.5 No person shall be appointed on an Appeal Committee to hear an appeal with respect to a decision in which that person participated as part of the Code of Conduct Committee.
- 14.6 Where circumstances make it a necessity, an Appeal Committee may be formed by less than three members so long as the chairperson meets the appointment criteria as set out in clause 14.2.
- 14.7 Where appropriate, the size, composition and approach of the Appeal Committee may also be adjusted when dealing with persons under the age of 18. The Relevant Organisation convening the hearing shall ensure that the process is conducted by people that are accustomed to dealing with children and are equipped to provide a comfortable and safe environment with the appropriate level of informality.
- 14.8 The sanctioned Relevant Person or Relevant Organisation<sup>17</sup>, or any other Relevant Person or Relevant Organisation (with approval of the Relevant Organisation with jurisdiction for the matter), the relevant state or territory Union and Rugby AU has seven days, beginning with the date on which the written decision was sent, to appeal a decision made by the Code of Conduct Committee by:
- (a) completing an Appeal Notice (either in the form provided in **Appendix 2** or in a form provided by Relevant Organisation) and providing it to Relevant Organisation with jurisdiction for the matter; and
  - (b) paying the Appeal Fee.
- 14.9 Except where an appeal proceeds in whole as a *de novo*<sup>18</sup> hearing in accordance with clause 14.12, it is for the appellant to establish to the satisfaction of the Appeal Committee, on the balance of probabilities, that:

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<sup>17</sup> Please note that there is no appeal from a decision of a Code of Conduct Committee under clause 10.2(a) to an Appeal Committee.

<sup>18</sup> A rehearing of the matter.

- (a) the decision being challenged was wrong in fact or in law;
  - (b) the sanction imposed was manifestly excessive; and/or
  - (c) the sanction imposed was manifestly inadequate.
- 14.10 To the extent practicable, an appeal should be held within fourteen days of the lodging of the Appeal Notice and payment of the Appeal Fee.
- 14.11 An appeal will be conducted by an Appeal Committee convened by the Relevant Organisation that has jurisdiction for the matter.
- 14.12 The Appeal Committee shall have the power to order that a *de novo* hearing in whole or in part be adopted on appeal. A *de novo* hearing in whole or in part would only be appropriate where it is established that exceptional circumstances exist and it is in the interests of justice that a re-hearing of the case in whole or in part is necessary. In the case of an appeal which proceeds in whole as a *de novo* hearing the procedure to be adopted, the burden of proof and all evidential and other matters shall proceed as if the hearing was a first instance hearing before a Code of Conduct Committee<sup>19</sup>.
- 14.13 Subject to clauses 16.3 and 16.4, a decision handed down by the Appeal Committee is final and may not be appealed further under the Code.
- 14.14 Any sanction imposed at first instance by the Code of Conduct Committee will be upheld until the matter has been determined by the Appeal Committee.
- 14.15 In determining an appeal (that is not heard *de novo*), the Appeal Committee:
- (a) if it is not satisfied that one of the grounds in clause 14.9 has been established, may dismiss the appeal and affirm the Committee Decision;
  - (b) if it finds some form of legal, procedural or factual error but takes the view that this would not have impacted on the Committee's Decision or give rise to a gross miscarriage of justice or procedural unfairness, it may dismiss the appeal and affirm the Committee Decision; or
  - (c) if satisfied that one or more of the grounds specified in clause 14.9 is established, may vary, reverse or set aside the Committee Decision, in whole or in part, and substitute its own decision and/or sanction.
- 14.16 The Appeal Committee Decision must be advised to the parties in writing as soon as practicable after the conclusion of the appeal hearing.
- 14.17 The Appeal Committee has the discretion to order that the Relevant Organisation with jurisdiction for the matter reimburse all or part of any Appeal Fee paid by the appellant.

## **15. RECOGNITION OF DECISIONS**

- 15.1. Rugby AU may, in consultation with Member Unions as required, recognise decisions imposed by public authorities, other sports and/or other properly constituted bodies in respect of equivalent breach(es) to Prohibited Conduct as defined in this Code and/or breach(es) of disciplinary and/or conduct rules (including without limitation with respect to conduct committed on or off the field of play, or equivalent, in another sport), and may recognise and/or impose appropriate sports-based measures or sanctions,

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<sup>19</sup> The decision of an Appeal Committee dealing with a *de novo* appeal hearing is final and may not be appealed further by the appellant.

including without limitation equivalent sanctions to those provided for in this Code. For the avoidance of doubt there shall be no form or time limit applicable to the recognition of any decision by Rugby AU pursuant to this clause.

- 15.2 Where Rugby AU recognises such a decision, the decision shall thereafter be recognised automatically (without the need for further formality) by all Member Unions, which shall take all necessary action to render such decision (including without limitation any sanctions and/or penalties) effective in relation to involvement in the Game (in compliance with any applicable laws).

## **16. MISCELLANEOUS PROVISIONS**

### **CLEMENCY FOR LONG-TERM SANCTIONS**

- 16.1 A Relevant Person that has been the subject of a Long-Term Sanction may apply to the Relevant Organisation that imposed the sanction for clemency after he or she has served at least 8 years of the suspension handed down by the relevant Code of Conduct Committee or Appeals Committee. The matter will be referred by the Relevant Organisation with jurisdiction for matter to a Code of Conduct Committee for review and they shall determine at their absolute discretion, whether it is appropriate for the individual to return to rugby and, if so, in what capacity and/or on what conditions. The decision of the Code of Conduct Committee is final and no appeal lies from it.

### **UNFORSEEN CIRCUMSTANCES**

- 16.2 In the event that a particular issue arises for which there is no provision in the Code then a Code of Conduct Committee or Appeal Committee may take such action as is considered appropriate in the circumstances in accordance with general principles of natural justice and fairness.

### **POWER OF REVIEW**

- 16.3 The Head of Integrity, or his/her nominee, shall have the power to refer any matter to a Rugby AU appointed tribunal for review where the Head of Integrity is of the view that there has been a failure on behalf of any Appointed Person, Relevant Organisation, Code of Conduct Committee or Appeal Committee in applying the Code resulting in serious error, injustice or unfairness.
- 16.4 If the Rugby AU appointed tribunal determines that there has been a failure to properly apply the Code, resulting in serious error, injustice or unfairness, the tribunal may take any such action it considers necessary in all the circumstances of the case to ensure that the provisions of the Code are properly applied, included rehearing a matter and making relevant findings and imposing any appropriate sanctions. The decision of the tribunal is final and may not be appealed.

### **RETENTION OF CODE OF CONDUCT INFORMATION/DISCIPLINARY RECORDS**

- 16.5 Where a complaint has been received by a Relevant Organisation but has not resulted in a breach of the Code being admitted or proved, the Relevant Organisation shall retain a copy of the complaint and all relevant materials for a period of five years. Where a complaint has been received by a Relevant Organisation and has resulted in a breach of the Code being admitted or proved, the Relevant Organisation shall retain a copy of the complaint and all related material for a period of ten years.
- 16.6 A record of all admissions or findings of breach of the Code, including any sanctions imposed on a Relevant Person or Relevant Organisation shall be kept by the Relevant

Organisation with jurisdiction for dealing with the matter for a period of 10 years<sup>20</sup>. The record may be taken into consideration in any future rugby disciplinary proceedings in that period of time and Appointed Person or Code of Conduct Committee has a discretion to determine the extent to which this is taken into consideration in determine a sanction in any subsequent proceedings under the Code.

#### PUBLICATION OF DECISIONS

- 16.7 The Relevant Organisation with conduct of the matter shall be entitled to publish (including on its website or other media), in its absolute discretion, reports of its proceedings or any written decision of a Code of Conduct Committee or Appeal Committee (in full or in a redacted form) and any supporting evidence, whether or not they reflect adversely on the character or conduct of any Relevant Person, Relevant Organisation or other person. All Relevant Persons and Relevant Organisations bound by the Code shall be deemed to have provided their full and irrevocable consent to such publication.

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<sup>20</sup> Where an alleged breach is submitted or managed in Salesforce, then all documents and records of all steps taken must be included and retained in Salesforce by the Relevant Organisation.

**APPENDIX 1**

**RUGBY AUSTRALIA CODE OF CONDUCT – BREACH NOTICE**

**1. RESPONDENT'S DETAILS**

Respondent's name

Respondent's date of birth  
(if applicable)

Respondent's address

**2. DETAILS OF APPOINTED PERSON DEALING WITH THE MATTER**

Name

Relevant Organisation dealing  
with the matter

**3. BREACHES ALLEGED**

Brief summary of facts alleged

Alleged breaches of the Code  
(including the alleged conduct  
and the relevant section(s) of  
the relevant Code, Policy or  
Guideline said to have been  
breached)

Date and time of alleged  
breaches (if known)

Location of occurrence of the alleged breaches (if known)	
<b>4. <u>PROPOSED SANCTION</u></b>	
Seriousness of the breach(es) and reasons for such determination.	
Proposed sanction for the alleged breaches of the Code (including any proposed discounted sanction for early admission).	
<b>5. <u>ADDITIONAL INFORMATION FOR RESPONDENT</u></b>	
<p>Please note that the conduct and sanction may be publicly disclosed by the Relevant Organisation dealing with the matter.</p> <p>The respondent may admit<sup>21</sup> the alleged breach(es), waive their right to a hearing and accept the proposed sanction or the proposed discounted sanction (if applicable).</p> <p>If a respondent does not respond within <b>14 days</b> from the breach notice having been sent to their last known address and/or email address, they will be deemed to have admitted the alleged breach(es), waived their right to a hearing and accepted the proposed sanction.</p> <p>A respondent has a right to a hearing in relation to the alleged breach(es) and/or the proposed sanction before a Code of Conduct Committee.</p> <p>Any response to this breach notice must be made to:</p> <p>(Relevant Organisation dealing with the matter to provide the contact details for the Appointed Person below):</p>	
Name	
Email Address	
Telephone Number	
Date that a response to the breach notice is due	

<sup>21</sup> Where a respondent admits the alleged breach(es), waives their right to a hearing and accepts the proposed sanction or the proposed discounted sanction (if applicable), or is deemed to have done so, the Appointed Person must take all necessary steps to impose and implement the sanction and proceed to finalising the complaint.

Please note: any response may be provided to the complainant and any other relevant person and/or Relevant Organisation that the Appointed Person, acting in good faith, deems necessary and appropriate.

**6. SIGN OFF**

Name of Appointed Person	
Signature of Appointed Person	
Date	



## APPENDIX 2

### **RUGBY AUSTRALIA CODE OF CONDUCT – APPEAL NOTICE**

#### **1. APPELLANT'S DETAILS**

Appellant's name

Appellant's date of birth  
(if applicable)

Appellant's address

Appellant's email address

#### **2. DETAILS OF APPOINTED PERSON DEALING WITH THE MATTER**

Name

Relevant Organisation dealing  
with the matter

#### **3. DECISION DETAILS**

Date of Code of Conduct  
Committee decision

Breaches alleged by Relevant  
Organisation

Copy of written decision  
provided by the Appellant

Yes/No

Appeal Fee Paid by Appellant

Yes/No

#### **4. WHAT IS THE APPEAL AGAINST**

Is appeal against the reasons  
for the decision and the  
sanction imposed?

Yes/No (**Please provide details**)

Is the appeal only against the sanction imposed?	Yes/No ( <b>Please provide details</b> )
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### 5. GROUNDS FOR THE APPEAL

With respect to the decision appealed, the grounds of appeal are:

- a) the decision was wrong in fact or in law (**enter details if applicable**); and/or
  
- b) the sanction imposed was manifestly excessive (**enter details if applicable**); and/or;
  
- c) the sanction imposed was manifestly inadequate (**enter details if applicable**).

(If a *de novo* appeal hearing is sought under clause 14.2 – please attach a separate sheet with grounds relied upon).

### 6. ADDITIONAL INFORMATION FOR APPELLANT

The Appellant bears the onus and burden of satisfying the Appeal Committee that the ground(s) of appeal has been made out.

To the extent practicable, an appeal should be held within fourteen days of the lodging of the appeal notice.

An appeal will be conducted by an Appeal Committee convened by the Relevant Organisation that has jurisdiction for the matter.

Subject to clauses 16.3 and 16.4 of the Code, an Appeal Committee Decision handed down by the Appeal Committee is a final and may not be appealed further under the code.

The appeal notice shall be sent to the Appointed Person at the relevant organisation that dealt with the code of conduct committee hearing.

**Please note:** Any appeal notice may be provided to the complainant and any other Relevant Person and/or Relevant Organisation that the Appointed Person, acting in good faith, deems necessary and appropriate.

### 7. SIGN OFF

Signature of Appellant	
Date	

