

MOTORCYCLING AUSTRALIA POLICY

Title: Member Welfare Policy

Commencement Date: 11 August 2020

Next Review Date: August 2022

Responsible Persons: MA Board

Authority: This Policy is made under clause 15 of the MA Constitution. It is binding on all MA Members and volunteers, and all employees of MA and its SCBs, and is to be interpreted in accordance with the MA Constitution.

1. INTRODUCTION

1.1 MA, and its Members including the SCBs, are committed to promoting the welfare of all Members and are dedicated to providing an inclusive environment able to be embraced by everyone wishing to participate in the Sport.

1.2 As part of the motorcycling community, each person bound by this Policy:

1.2.1 Acknowledges individual responsibility for promoting the welfare of Members including CYP in the Sport;

1.2.2 Makes a commitment to actively encourage behaviours that promote a supportive environment and contribute to MA's mission of advancing the Sport in Australia; and

1.2.3 will promote and monitor this Policy to the fullest extent possible.

1.3 This Policy consists of the following:

1.3.1 Member Welfare Policy

1.3.2 Code of Conduct

1.3.3 Complaints Procedures

1.4 This Policy replaces any existing similar policy and is effective and applicable to all or any breach reported on or after the Commencement Date save and except where a complaint is:

1.4.1 submitted prior to the Commencement Date, it must be dealt with under the policies and processes of MA existing at the time; or

1.4.2 being dealt with at the time of an amendment to this Policy, it will continue to be processed under the version of this Policy in force at the time MA receives the Complaint.

2. DEFINITIONS AND INTERPRETATION

- 2.1 **Abuse** means Physical Abuse, Emotional Abuse (including psychological abuse), Sexual Abuse and abuse of power that has caused, is causing or is likely to cause Harm to a person's wellbeing or development. Examples of Abuse include but are not limited to, Bullying, humiliation, verbal abuse and insults, grooming, harassment (including Sexual Harassment), Discrimination, Neglect and Sexual Misconduct.
- 2.2 **Bullying** means the inappropriate use of power by one or more persons over another less powerful person or group and is generally an act that is repeated over time. Bullying may take many forms that are often interrelated and can include:
- 2.2.1 verbal (name calling, put-downs, threats)
 - 2.2.2 physical (hitting, punching, kicking, scratching, tripping, spitting)
 - 2.2.3 social (ignoring, excluding, ostracising, alienating)
 - 2.2.4 psychological (spreading rumours, stalking, dirty looks, hiding or damaging possessions).
- For the avoidance of doubt, Bullying includes cyber bullying.
- 2.3 **Child Abuse** means the mistreatment by an adult of a CYP that has Harmed, is Harming or is likely to Harm or endanger or put at risk that CYP's physical or emotional health, development or wellbeing including but not limited to Emotional or Psychological Abuse, Bullying, grooming, Sexual Misconduct, Neglect or Child Harassment.
- 2.4 **Child Harassment** means any harassment having a significant detrimental effect on a CYP's physical, psychological or emotional wellbeing, being more than transitory and demonstrable in the CYP's presentation, functioning or behaviour.
- 2.5 **CYP** means a child or young person being a person under the age of eighteen years who engages in our Sport.
- 2.6 **Complainant** means the person or persons making a complaint and includes a parent, guardian or adult representative of the CYP.
- 2.7 **Discrimination** means treating, proposing to treat or requesting, assisting, instructing or encouraging another person to treat a person less favourably than someone else on the basis of an attribute or personal characteristic including:
- 2.7.1 age
 - 2.7.2 disability
 - 2.7.3 marital status
 - 2.7.4 parental or carer status
 - 2.7.5 physical features
 - 2.7.6 irrelevant medical record
 - 2.7.7 irrelevant criminal record

- 2.7.8 political belief or activity
 - 2.7.9 pregnancy
 - 2.7.10 breastfeeding
 - 2.7.11 race
 - 2.7.12 religious belief or activity
 - 2.7.13 sex or gender
 - 2.7.14 sexual orientation
 - 2.7.15 trade union membership or activity
 - 2.7.16 Transgender orientation.
- 2.8 Discrimination also includes any other behaviour recognised by commonwealth, state or territory law as discrimination. Examples of Discrimination are available on the *Play by the Rules* website.
- 2.9 **Emotional or Psychological Abuse** means repeated rejection, threats, criticism, teasing, ignoring, threatening, yelling, scapegoating or ridicule that results or has the potential to result in significant damage to a person’s physical, intellectual or emotional wellbeing and development. Specific to sport, overtraining can constitute Emotional or Psychological Abuse.
- 2.10 **Harm** means any detrimental effect of a significant nature to a person’s physical, psychological or emotional wellbeing.
- 2.11 **MA** means Motorcycling Australia Ltd
- 2.12 **Member** has the meaning given to it by the MA Constitution.
- 2.13 **Neglect** means the persistent or deliberate failure or refusal to provide a CYP with the basic necessities of life such as food, clothing, shelter, adequate supervision, clean water, medical attention or supervision to the extent that the CYP’s health and development is, or is likely to be, significantly harmed. The issue of Neglect must be considered within the context of resources reasonably available.
- 2.14 **Physical Abuse** means one person subjecting another to non-accidental physically aggressive acts, or acts that place a CYP at risk of Harm, whether intentionally or inadvertently inflicted, and includes giving harmful substances such as drugs, alcohol or poison.
- 2.15 **SCB** means a state controlling body affiliated to and/or recognised by MA as a Member and as its delegate within that SCB’s state or territory borders.
- 2.16 **Sexual Abuse** means an adult or a person in a position of authority involving another person in any sexual activity. It can include making sexual comments, engaging another to participate in sexual conversations over the internet or on social media, kissing, touching a person’s genitals or breasts, oral sex or intercourse. Encouraging a person to view pornographic magazines, websites and videos or to participate in sexual conversations over the internet is also considered Sexual Abuse.

- 2.17 **Sexual Exploitation** means forcing a person, including a CYP into sexual activities that are then recorded in some way and/or used to produce pornography. Such pornography can be in the form of photos or videos whether or not published on the internet.
- 2.18 **Sexual Harassment** means unwanted, unwelcome or uninvited behaviour of a sexual nature and which could reasonably be anticipated to make a person including a CYP feel humiliated, intimidated or offended. Sexual Harassment can take many different forms and may include unwanted physical contact, verbal comments, jokes, propositions and displays of pornographic or offensive material or other behaviour that creates a sexually hostile environment.
- 2.19 **Sexual Misconduct** means any of the following:
- 2.19.1 Sexual Abuse
 - 2.19.2 Sexual Exploitation
 - 2.19.3 Sexual Offences
 - 2.19.4 Sexual Harassment
- 2.20 **Sexual Offence** means a criminal offence involving sexual activity or actions of indecency. Because of differences under state and territory laws, this can include:
- 2.20.1 rape
 - 2.20.2 indecent assault
 - 2.20.3 sexual assault
 - 2.20.4 assault with intent to have sexual intercourse
 - 2.20.5 incest
 - 2.20.6 sexual penetration of CYP under the age of 16
 - 2.20.7 indecent act with CYP under the age of 16
 - 2.20.8 sexual relationship with CYP under the age of 16
 - 2.20.9 sexual offences against people with impaired mental functioning
 - 2.20.10 abduction and detention
 - 2.20.11 procuring sexual penetration by threats of fraud
 - 2.20.12 procuring sexual penetration of a CYP under the age of 16
 - 2.20.13 bestiality
 - 2.20.14 soliciting acts of sexual penetration or indecent acts
 - 2.20.15 promoting or engaging in acts of child prostitution
 - 2.20.16 obtaining benefits from child prostitution

2.20.17 possession of child pornography

2.20.18 publishing child pornography and indecent articles.

2.21 A reference to the **Sport** means the sport or recreational activity of motorcycling

2.22 **Transgender** is a general term applied to individuals and behaviours that differ from the gender role commonly, but not always, assigned at birth. It does not imply any specific form of sexual orientation. See www.humanrightscommission.vic.gov.au (Guideline: Transgender people and sport Complying with the Equal Opportunity Act 2010 (Act))

2.23 **Victimisation** means subjecting a person or threatening to subject a person to any detrimental or unfair treatment because that person has or intends to pursue their rights to make a complaint under law or under this Policy, or for supporting another person to make a complaint.

2.24 Headings are for convenience only and do not affect interpretation and unless the context indicates a contrary intention:

2.24.1 "includes" in any form is not a word of limitation;

2.24.2 a reference to "month" is to a calendar month; and

2.24.3 a reference to "\$" or "dollar" is to Australian currency.

MEMBER WELFARE POLICY

3. WHO IS BOUND BY THIS POLICY?

3.1 This Policy binds every Member including:

3.1.1 persons appointed or elected to boards, committees and sub-committees

3.1.2 volunteers

3.1.3 support personnel

3.1.4 any other person involved in the Sport including participants, parents, guardians, spectators, sponsors and licensees and other contracted parties to the full extent possible.

3.2 This Policy will continue to apply to a person, even after they have stopped their association or employment (subject to this Policy's terms) with MA or a, if disciplinary action against that person has commenced.

4. COMMITMENT

4.1 Each Member must, to the extent possible:

4.1.1 adopt, implement and comply with this Policy

4.1.2 ensure that their constitution, by-laws or other rules and policies include the necessary clauses for this Policy to be enforceable

4.1.3 publish, distribute and promote this Policy and the consequences of breaches

- 4.1.4 promote and model appropriate standards of behaviour at all times
- 4.1.5 implement a complaint management system that includes appropriate policies and procedures, clear lines of responsibility, and appropriate delegations
- 4.1.6 deal with any breaches or complaints made under this Policy in a sensitive, fair, timely and confidential manner
- 4.1.7 apply this Policy consistently
- 4.1.8 recognise and enforce any penalty imposed under this Policy
- 4.1.9 ensure that a copy of this Policy is available or accessible to the persons and entities to whom it applies
- 4.1.10 monitor and review this Policy regularly.

4.2 In addition, individuals bound by this Policy must:

- 4.2.1 make themselves aware of its contents and adopt its practices and behaviours when carrying out their roles;
- 4.2.2 comply with all relevant provisions, including any codes of conduct and the steps for making a complaint
- 4.2.3 consent to the Policy's screening requirements, and any state/territory Working with Children Checks (WWCC) if the person holds or applies for a role that involves regular unsupervised contact with CYP or where otherwise required by law
- 4.2.4 place the welfare of CYP above other considerations
- 4.2.5 report any Abuse or neglect of CYP which they become aware of, to MA or SCB management and/or to external authorities responsible for child protection or to police, regardless of whether that Abuse is being perpetrated by personnel within or outside the Sport including those from the child's family, extended family, their family's extended network or strangers.
- 4.2.6 be accountable for their behaviour and
- 4.2.7 comply with any decisions and/or disciplinary measures imposed under this Policy.

5. BREACHES OF POLICY

5.1 Failure to comply with this Policy may result in disciplinary action in accordance with this Policy and/or under other MA rules and policies or its Constitution. It is a breach of this Policy for any Member to do anything contrary to this Policy, including but not limited to:

- 5.1.1 breaching the Code of Conduct;
- 5.1.2 bringing the Sport and/or MA into disrepute, or acting in a manner likely to cause such disrepute;
- 5.1.3 failing to follow this Policy or other MA policies including its Child Welfare Policies;

- 5.1.4 Discriminating against, harassing or Bullying (including cyber-bullying) any person;
- 5.1.5 Victimising another person for making or supporting a complaint;
- 5.1.6 engaging in an inappropriate intimate relationship with a person they supervise, or have influence, authority or power over;
- 5.1.7 verbally or physically assaulting another person, intimidating another person or creating a hostile environment within the Sport;
- 5.1.8 disclosing to any unauthorised person or organisation any MA information that is of a private, confidential or privileged nature;
- 5.1.9 making a complaint that they know to be untrue, vexatious, malicious or improper;
- 5.1.10 failing to comply with a penalty imposed after a finding that the Member has breached this Policy; and
- 5.1.11 failing to comply with a direction given to the Member as part of a disciplinary process.

CODE OF CONDUCT

6. INTRODUCTION

- 6.1 The following Code of Conduct outlines the standards of behaviour expected of Members involved in the Sport.
- 6.2 It is a condition of membership that each Member commits to observing this Code of Conduct, wherever practicable.

7. COMMITMENT

- 7.1 The Code of Conduct should be read in conjunction with:
 - 7.1.1 the specific requirements of any role as described in any MA rule, regulation, policy or directive, or in any position description statement, if applicable
 - 7.1.2 relevant policy and procedure documents
 - 7.1.3 the complaint procedures
 - 7.1.4 other MA policies and guidelines available on the MA website
 - 7.1.5 all applicable laws in the relevant state or territory
 - 7.1.6 general community expectations in relation to appropriate behaviour.
- 7.2 All Members may consider a failure to observe the Code of Conduct as misconduct and may take appropriate disciplinary action in accordance with relevant rules and regulations including this Policy.

8. EXCEPTIONS

8.1 There may be exceptional situations where the Code of Conduct does not apply, for example, in an emergency situation. It is crucial however that, where possible, authorisation is sought from the relevant Member prior to taking action that may contravene this Code of Conduct or the relevant Member is advised as soon possible of any incident which may breach this Code of Conduct.

8.2 This Code of Conduct should be followed at all times and by all Members.

8.3 General

8.3.1 Members must:

- (a) respect the rights, dignity and worth of others — “treat others as you would like to be treated”
- (b) be ethical, considerate, fair, courteous and honest in all dealings
- (c) accept responsibility for, their actions
- (d) be aware of, follow and promote, at all times, the rules, policies and procedures of the Sport
- (e) operate within the spirit of good sportsmanship
- (f) understand the possible consequences of breaching this Code of Conduct and/or this Policy
- (g) report any breaches of this Code of Conduct or this Policy to the relevant Member
- (h) refrain from any form of Bullying, Abuse, harassment, Discrimination and Victimisation towards others
- (i) raise concerns arising under this Policy through the appropriate channels and in a timely manner
- (j) provide an environment for the Sport that complies with relevant MA policies
- (k) show concern, empathy and caution towards others that may be sick or injured
- (l) strive to be a positive role model to all
- (m) respect and protect confidential information obtained through the Sport
- (n) maintain the required standard of accreditation and/or licensing competency applicable to the role
- (o) ensure that any physical contact with others is appropriate to the situation and necessary for the person’s skill development
- (p) refrain from intimate relations with persons over whom a Member has a position of authority
- (q) agree to abide by this Code of Conduct

8.4 Sexual Misconduct and Relationships

8.4.1 Engaging in any form of sexual behaviour or Sexual Misconduct while participating in the Sport is prohibited. For the purposes of this Policy, sexual behaviour will be interpreted widely to encompass the entire range of actions that would reasonably be considered to be sexual in nature whether involving contact behaviour or non-contact behaviour, and including contact or exposure by electronic or other means;

- (a) 'contact behaviour' means and includes kissing, fondling or sexual penetration;
- (b) 'non-contact behaviour', means and includes flirting, sexual innuendo, inappropriate messaging, inappropriate photography or exposure to pornography or nudity.

8.5 Use, possession or supply of alcohol or drugs

8.5.1 While on duty or carrying out their role within the Sport, a Member must not:

- (a) use, possess or be under the influence of an illegal or illicit drug
- (b) use or be under the influence of alcohol
- (c) be incapacitated by any other legal drug such as prescription or over-the-counter drugs
- (d) supply alcohol or drugs (including tobacco) to CYP participating in the Sport.

8.5.2 Use of legal drugs other than alcohol is permitted, provided such use does not interfere with a person's ability to undertake their role in the Sport.

8.5.3 All Members must adhere to strict guidelines regarding the responsible service and consumption of alcohol and act in accordance with relevant liquor licence laws and regulations.

8.6 Pregnancy

8.6.1 Pregnancy is not of itself a barrier to participation in the Sport. Pregnant women should not be faced with any unreasonable barriers to their full participation in the Sport.

8.6.2 Members who participate in the Sport whilst pregnant may face risks to the health and wellbeing of the mother and unborn child. Pregnant women are advised and encouraged to obtain medical advice about those risks as part of making informed decisions about the extent to which they choose to participate in the Sport.

8.6.3 Pregnant women will be required to sign a disclaimer only if all other participants are required to sign one in similar circumstances. Women will not be required to undertake a pregnancy test.

8.6.4 If a pregnant woman feels she has been harassed or Discriminated against on the basis of her pregnancy by another Member, she may make a complaint.

8.7 Gender identity

- 8.7.1 Gender identity is not of itself a barrier to participation in the Sport. People who identify as transgender or transsexual should not be faced with any unreasonable barriers to their full participation in the Sport.
- 8.7.2 It is recognised that there is debate over whether a male-to-female transgender person obtains any physical advantage over other female participants. This debate is reflected in the divergent discrimination laws across the country. If issues of performance advantage arise, advice will be sought on the application of those laws in the particular circumstances.
- 8.7.3 MA's anti-doping, and drug and alcohol policies, including testing procedures and prohibitions, apply equally to people who identify as transgender. A person receiving treatment involving a Prohibited Substance or Method, as described on the World Anti-Doping Agency's Prohibited List, should apply for a standard Therapeutic Use Exemption.
- 8.7.4 If a transgender or transsexual person feels they have been harassed or Discriminated against on the basis of their gender identity by another person or entity bound by this Policy, they may make a complaint.

8.8 Smoke free environment

- 8.8.1 Members must adhere to relevant legislation and local government regulations in relation to smoking and are otherwise requested to refrain from smoking when engaged in the Sport.

8.9 Cyber Bullying

- 8.9.1 Bullying and harassment are unacceptable in any form. Bullying has the potential to cause great anxiety and distress to the person targeted by hurtful or derogatory comments or statements.
- 8.9.2 No Member will tolerate abusive, discriminatory, intimidating or offensive statements being made via any means including online. In some cases, Bullying is a punishable criminal offence.
- 8.9.3 Frustration with a Member should never be communicated via social networking. These issues should instead be addressed by making a complaint, via the Complaints Procedure.

8.10 Social networking websites

- 8.10.1 All Members acknowledge the enormous value of social networking websites, such as Facebook and Twitter, to promote the Sport and celebrate the achievements and success of the people involved. At the same time, all Members must conduct themselves appropriately when using social networking sites to share information related to the Sport.
- 8.10.2 Social media postings, blogs, status updates and tweets by Members:
 - (a) must not use offensive, provocative or hateful language or photographs/images
 - (b) must not be misleading, false or injure the reputation of another person
 - (c) should respect and maintain the privacy of others
 - (d) should promote the Sport in a positive way.

9. COMPLAINTS PROCEDURE

- 9.1 A complaint alleging a breach by a Member of this Policy should be lodged with MA in accordance with the MA Complaints Resolution Policy, using the Complaint Form.