



**Australian Government**  
**Australian Sports Commission**



**AUSTRALIAN  
INSTITUTE OF SPORT**

# Australian Sports Commission

## Code of Conduct

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# Australian Sports Commission - Code of Conduct

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## Australian Sports Commission

### Code of Conduct

#### 1 Section 1 ASC Values and Conduct Standards

##### 1.1 Introduction

The Australian Sports Commission (ASC) Code of Conduct applies to all ASC employees, Board members, contractors, employees of contractors and subcontractors as well as to individuals using the ASC/AIS facilities.

The Code defines the required standard of behaviour for:

- **All ASC Employees** - It applies in all aspects of an employee's work and work related activities, including when they are on approved leave. The Code is aligned to the ASC's Values. The Code acknowledges that our employees, through their actions and behaviors, are essential to the effectiveness and reputation of the organisation.
- **Coaches and administrators employed by National Sporting Organisations (NSO)** who by agreement between the AIS and the NSO, are performing a designated coaching or administrative role for the ASC, when working on or with ASC personnel and/or athletes in any venue linked to their employment.
- **Contractors, employees of contractors and subcontractors of the ASC**, when working on the ASC site, or with ASC personnel, or in connection with ASC business.
- **Individuals using the ASC/AIS facilities**, or who have access to ASC/AIS facilities or services.

Values and Standards underpin work relationships and behaviour. They establish "the way we work at the ASC". Although the ASC does not prioritise the Values or the Standards, it is helpful to consider them in terms of relationships and behaviors:

- between ASC employees and the Government and the Parliament
- between ASC employees and the public
- between ASC employees and national, state and other sporting organisations, their representatives, and individual athletes, coaches or other officials
- between ASC employees and contractors and employees of contractors and
- amongst ASC employees in the workplace.

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### 1.2 Australian Sports Commission Values

The ASC has developed core values in our working relationship with each other. These values identify that in every relationship with our stakeholders all employees will:

- be *responsive* to their needs;
- *consult* and endeavor to reach common understandings;
- be *open* and transparent;
- *listen* and communicate openly; and
- accept full *responsibility* for our decisions and actions.

In our relationship with each other, all employees will:

- strive for *excellence* and maximize our performance;
- be *cooperative* and work as a team;
- be *leaders* in our field;
- listen and *communicate* openly;
- accept full *accountability* for decisions and actions
- value the *well-being and diversity* of our people; and
- treat each other with *dignity and respect*.

### 1.3 Australian Sports Commission Standards

As an ASC employee you have a responsibility under the Code of Conduct to:

1. Behave professionally, honestly and with integrity, and in a way that upholds the ASC Values and the good reputation of the ASC at all times.
2. Treat everyone with respect, courtesy, and without harassment.
3. Act with care and diligence and perform work duties in a manner that is conducive to the health and safety of both yourself and others.
4. Not engage in physical contact with athletes except where absolutely necessary for the development of an athlete's or child's skill or athletic ability.
5. Take all reasonable steps to eliminate any forms of physical, verbal and emotional abuse of others, in particular athletes and children.

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6. Be accountable for your own behaviour and actions when dealing with members of the public, athletes, stakeholders and other employees of the ASC.
7. Maintain confidentiality regarding all information obtained in the course of your employment, including in dealings with the ASC Board, Ministers and government departments.
8. Not give or disclose, directly or indirectly, any information about the ASC's business, unless required during the course of your duty or unless you have been expressly authorised to do so.
9. Not provide false or misleading information to others in the course of your duties at the ASC.
10. Not make improper use of inside information, your status, power or authority.
11. Ensure information and documentation that you are provided with, work with or generate in the course of your duties, is confidential and at all times remain the property of the ASC.
12. Disclose and take appropriate steps to avoid any conflict of interest (real or apparent) with your employment or engagement by the ASC.
13. Use ASC resources and facilities in a correct and responsible manner.
14. Ensure you do not display or transmit, or cause to be displayed or transmitted, offensive and/or inappropriate material or messages in the workplace. This relates to any environment linked to the business and operations of the ASC, and includes the internet, our website, the intranet site, emails, internal bulletin boards, personal workstations or office areas.
15. Adhere to all applicable ASC policies and procedures.
16. Comply with any lawful and reasonable directions given to you by anyone in the ASC who has authority to give the direction.
17. Comply with applicable laws and implement official decisions and ASC policies.

### **1.4 Condition of Employment**

Adherence to the Code of Conduct is a fundamental condition of every person's employment in the ASC. Employees must conduct themselves in accordance with the Standards in Section 1.3 of this document, and the Code of Conduct in every aspect of their working life at the ASC. Accordingly, breaches of any of the Standards or the Code, may result in disciplinary action including termination of employment.

In addition to the Code of Conduct you should be aware of your obligations under other acts, regulations and determinations relevant to your employment. These include, but are not limited to, the:

- Determination under Section 41 of the ASC Act 1989
- Division 4 "Conduct of Officers" of the Commonwealth Authorities and Companies Act 1997

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- Crimes Act 1914
- Criminal Code Act 1995
- Sex Discrimination Act 1984
- Racial Discrimination Act 1975
- Disability Discrimination Act 1992
- Racial Hatred Act 1995
- Human Rights and Equal Opportunity Commission Act 1986
- Occupational Health and Safety (Commonwealth) Act 1981
- Workplace Relations Act 1976
- Privacy Act 1988
- Copyright Act 1968
- Equal Opportunity for Women in the Workplace Act 1999; and

For those people whose responsibilities include activities with children and young people, the

- Child Protection (Prohibited Employment) Act (NSW)
- Children and Young People Act 1999 (ACT)
- Children and Young People Act 1998 (NSW)
- Children and Young People Act 2000 (QLD), and
- Any other Acts developed in relation to Child Protection.

Copies of the relevant legislation can be accessed via the ASC Intranet and will be updated as amendments are made to the relevant legislation.

### **1.5 Equity, Respect and Fair Treatment**

People have a right to be treated with respect in all aspects of their working life. Equally, you have a responsibility to treat others with respect. These rights and responsibilities are integral to your employment relationship with the ASC and they are critical in ensuring an environment in which all people are safe, respected and treated fairly.

All ASC employees are responsible for treating their colleagues fairly and with respect and consideration. Equity, fairness and respect to others must underpin our working relationships with others and stakeholders.

All employees and stakeholders should be valued for the diversity they bring to the ASC. It is illegal to harass and or discriminate against an ASC employee or stakeholder on the following grounds;

- Race;
- Religion;
- Gender;
- Political or industrial affiliation;
- Sexual preference;

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- Pregnancy;
- Family responsibilities;
- Social origin;
- Criminal record;
- Age;
- Medical condition and
- Physical, mental and intellectual ability.

Issues that arise in relation to any of the above matters will be dealt with according to the applicable legislation as well as under the ASC Code of Conduct.

### **1.6 Integrated Policy Framework of Standards, Responsibilities and Procedures**

The ASC Code of Conduct establishes an integrated set of behavioral standards, responsibilities and practices.

A particular obligation, forming part of the general standards, is the obligation on all employees to “adhere to all other applicable ASC policies and procedures”. This includes, but is not limited to, policies dealing with matters such as:

- Anti-Doping
- Child Protection
- Fraud and Fraud Prevention
- Information Management
- Security

Other ASC policies do not replace or supplant the standards and responsibilities set out in the Code of Conduct, rather they establish standards and procedures to be adhered to in specific matters and situations and, as such, have a foundation in the general standards set down in the Code of Conduct. These policies may change from time to time as a result of legislative or procedural requirements. It is part of an employee’s responsibility to ensure familiarity with the requirements of all ASC policies and procedures applicable to their role and job responsibilities.

It is recognised that employees in certain professions, such as medicine or psychology, may be subject to codes of practice and ethics established and administered by relevant boards of registration. In particular, they may be bound by these codes of practice to respect and honour confidentiality in their dealings with patients or clients. These issues may be covered by the disclosure signed in the Athlete Scholarship Agreement, if so, advice should be sought from the Head, Department of Sports Medicine.

Depending upon the particular issue, employees may have a responsibility to act under one or more ASC policies as well as the Code of Conduct. Accordingly, employees must

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give due and proper consideration in each instance to ensure they meet all their obligations. Guidance on your obligations to act under the Code of Conduct and/or other policies can be sought from Human Resources. In seeking this guidance appropriate confidentiality will be maintained.

### *1.6.1 ASC Anti Doping Policy*

The ASC condemns the use of performance enhancing drugs and doping practices in sport. The ASC Anti Doping Policy applies to:

- AIS athlete scholarship holders;
- employees and contractors of the ASC;
- persons and bodies who receive financial or other assistance through the ASC including support personnel (for example any coach, trainer, manager, agent, team employees, official or para-medical personnel working with or treating athletes participating in or preparing for sports competition), and
- persons who have access to ASC/AIS facilities or services.

Processes for reporting, investigating and determining breaches are set out in the Anti-Doping Policy. ASC employees and contractors (and their employees) must give due and proper consideration as to whether they also have a responsibility to act under the Code of Conduct.

Anti-doping issues may require specific action to be taken under provisions of the Code of Conduct. Guidance on these issues should be obtained from Human Resources.

### *1.6.2 AIS Athletes at Risk Policy*

It is acknowledged that all AIS athletes will operate in an environment that at times places high levels of stress on the individual. The AIS Athlete at Risk Policy establishes processes and protocols to be followed by ASC employees, contractors and coaches and administrators funded through arrangements with national sporting organisations in providing support and assistance to AIS Scholarship athletes.

### *1.6.3 ASC Fraud Policy*

The ASC Fraud Policy establishes a policy framework within which fraud prevention and related risk management is addressed. It also sets out procedures for dealing with suspected or alleged fraud.

The ASC has adopted the Federal Government's definition of fraud, which is:

*“Inducing a course of action by deceit or other dishonest conduct, involving acts or omissions or the making of false statements, orally or in writing, with the object of obtaining money or other benefit from, or evading a liability to the Commonwealth.”*

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Where an employee is suspected of having committed fraud, it will be considered serious misconduct. If any employee genuinely believes or suspects that another employee is committing or has committed fraud, it is their responsibility to report this to the relevant Program Manager or General Manager/Director.

### **1.7 Reporting Alleged Breaches in the Code of Conduct**

Any person, making allegations about a breach of the Code of Conduct or involved in an investigation of such matters, has an obligation to act in a discreet and confidential manner. Matters related to allegations and investigations should only be discussed with people who have direct involvement in resolving the matter and/or those who have management responsibilities for the employees involved.

A person performing functions in or for the ASC must not victimise nor discriminate against an employee of the ASC because the employee has reported alleged breaches of the Code of Conduct to management.

The Code of Conduct sets out procedures for the formal investigation and determination of alleged breaches in Section 6.

### **1.8 Definitions**

“ASC information” means any information that is sourced, created, developed or enhanced by employees of the ASC. ASC information may also relate to any information that is sourced, created, developed or enhanced by any contractors or employees of contractors.

“ASC Intellectual Property” means all rights in relation to copyright, trademarks, designs, plant breeder’s rights, circuit layouts, confidential information eg trade secrets.

“ASC Confidential Information” means any information that is competitively, commercially or politically sensitive.

“Associates” means a general class of people who will be bound by the ASC Code of Conduct, where those people are not actually employed by the ASC, but will use their facilities or offer support to athletes.

“Athlete Support Person” means any coach, trainer, manager, agent, team employee official or para-medical personnel working with or treating athletes participating in or preparing for sports competition.

"Contractor" means an organisation that is performing services for the ASC as an independent contractor, under a consultancy or other fee for service arrangement and includes employees of those contractors.

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"Employee" means any person employed by the Australian Sports Commission (ASC) in an employment agreement, including ongoing permanent employees, fixed term employees and casual employees.

"Gift" means anything offered to an employee as a result of their official duties which provides a personal advantage to the employee.

"Manager" means a program manager or the person with employee supervisory responsibility.

"Others" means any employee, contractor, personnel funded by National Sporting Organisation's through agreement with the ASC, stakeholder or associate.

"Outside engagement" means any form of remunerated activity outside of the employee's official ASC employment that should be undertaken wholly and solely in the employee's private time, using private resources.

"Stakeholder" means the Australian community, employees and contractors, AIS scholarship holders, their families and coaches, the government, the sports sector, including national sporting organisations, sporting clubs and associations, coaches administrators and volunteers, officials and referees, the sports industry, the media, and countries in receipt of Australian sport and development assistance.

## 2 Section 2: Conflict of Interest, Outside Engagement and Public Comment

The confidence of the stakeholders is vital to the integrity, reputation and proper and effective operation of the ASC. This confidence can be threatened if the community perceives that the ASC or any of its employees has a conflict of interest. Employees, contractors and associates need to be conscious of the potential for conflicts of interest between their private interests and their responsibilities to the ASC and its stakeholders.

### 2.1 Conflict of Interest

#### 2.1.1 *When can a conflict of interest occur?*

A conflict of interest occurs where an employee, contractor or others behaviour, actions or activities:

- conflict with the effective performance of duties;
- diminish the credibility, integrity or good standing of the ASC or the government;
- provide an unfair advantage or inequitable treatment to a supplier, potential supplier, client or stakeholder of the ASC;
- uses their position or intellectual property of the ASC in outside activities, remunerated or not;
- provide an unfair advantage to a family member or family company.

Conflict of interest can occur through:

- receiving a pecuniary or financial interest;
- personal or business relationships or activities; and
- as a member, official or representative of an outside organisation.

#### 2.1.2 *Procedures to deal with conflict of interest*

The procedures for managing conflicts of interest cover the:

- employees' responsibility to notify managers about real or potential conflicts of interest; and
- the manager's responsibility to decide whether;
  - there is, or could be a conflict of interest;
  - to ask the person to remove the source of conflict;
  - to change the person's duties or to transfer the person to another position where there is no conflict;

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- to allow the person to continue their duties.

Where there is any conflict of interest, ASC employees, contractors and others must:

- disclose it to their manager;
- divest themselves of interests that are considered conflicts of interest.

In meeting these obligations the primary onus is on the employee to avoid a conflict of interest. In addressing and resolving conflict, due consideration must also be given by employees and their managers to actions, activities or situations that may give rise to a perception by others that conflict exists, or a potential conflict of interest situation may exist.

To remove the potential for perceived or actual conflict of interest with National Sporting Organisations receiving funding from the ASC, employee should not be members of NSO Boards.

In a selection process applicants and interviewers will be required to declare any real or apparent conflict of interest. Before engagement, successful applicants may be required to remove the source of any existing or potential conflict of interest.

### **2.2 Outside Engagement**

‘Outside engagement’ is any form of remunerated activity, outside of the employee’s official ASC employment that should be undertaken wholly and solely in the employee’s private time, using private resources. Outside engagement can, amongst other things, include services provided to external organisations.

#### *2.2.1 Approval of Outside Engagement*

ASC employees can undertake outside engagements, and retain full remuneration, if the following guidelines are observed:

- the engagement does not cause a conflict of interest with the objectives and values of the ASC.
- the engagement does not prevent the employee performing the responsibilities of their ASC position at the expected standard.
- the engagement will be undertaken wholly and solely in the employees’ private time using private resources.
- information confidential to the ASC is not disclosed.
- the ASC and AIS names or logos are not used for promotional or administrative purposes associated with the outside engagement.
- the employee has informed their Manager in writing , and
- they have forwarded details to Human Resources for recording on the Outside Engagement register.

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Where there may be a real or perceived conflict of interest, the person must advise the relevant General Manager/Director or Executive Director, who will identify whether there is a conflict of interest. ASC employees may only undertake an outside engagement and obtain payment for it, where they have obtained the prior written approval of the relevant General Manager/Director or Executive Director of the ASC. Approval will be assessed on the nature of the real or perceived conflict of interest and the possible impacts upon the ASC.

If after discussion with the employee and the employee's Manager, the Executive Director believes that the undertaking of outside work does not fall within the above guidelines, or that the credibility of the ASC is being adversely affected, the employee may be instructed to cease the outside engagement as a condition of their ongoing employment with the ASC.

Continuation of approval remains at the discretion of the ASC, and may be required for each event, occasion or periodically depending on the nature and duration of the engagement.

These conditions also apply for staff that are on leave and wish to undertake 'Outside Engagement'.

### *2.2.2 Services to ASC programs*

Employees of the ASC must not provide services to an ASC program through a private company or any consultancy basis, unless the engagement is part of an arrangement with the ASC, agreed to by the relevant General Manager/Director.

## **2.3 Public Comment**

The term 'public comment' is used broadly. It includes any comment on ASC matters or sports, political or social issues made at public speaking engagements, during radio or television interviews, on the Internet, e-mails, in letters to the press, books or notices, or in other ways where the comment is intended for the community at large or where it is reasonably foreseeable that the comment will flow to the community.

Some employees and contractors, as part of their normal duties, provide comment to the media and the public about the ASC's activities. However, employees must not make public comment if it involves unauthorised disclosure of official information. For example coaches as part of their coaching duties, should only make comment on their athlete's performance, and not on ASC policy related matters or issues.

While employees and contractors (through their principals where contractors are companies) as private citizens can make public comment in a private capacity, they have an obligation to ensure their comments could not be perceived as:

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- being on behalf of the ASC or government, rather than a personal view;
- compromising the individual's capacity to fulfill his or her duties in an unbiased manner;
- raising questions about the individual's capacity to work professionally, efficiently or impartially;
- a gratuitous personal attack;
- compromising public confidence in the ASC; or
- so strong in its criticism of the ASC's administration that it could seriously disrupt the workplace.

Employees and contractors must obtain approval from the Manager, Media and Public Relations prior to releasing official documents or making public comment on behalf of the ASC.

### **2.4 Acceptance of gifts and other items for personal benefit**

Anything offered to an employee or a contractor of the ASC as a result of their official duties which provides a personal advantage is considered a gift or an item of personal benefit.

Except in the limited circumstances outlined below, ASC employees and contractors should not accept any gift or item for personal benefit additional to their remuneration and employment benefits where the gift or item is received in the course of their official ASC role. Examples may include but not be limited to:

- awards won as part of official business;
- free, sponsored or subsidised travel;
- gifts received in recognition of work done for other organisations or in the course of representing the ASC at sporting or other events;
- accommodation, hire-car discounts, entertainment and substantial hospitality.

Gifts can be accepted on behalf of the ASC. These gifts should be declared and delivered to the relevant Program Manager or General Manager/ Director as soon as possible after receipt.

In certain circumstances it may be possible to accept small gifts. Some examples are:

- A gift of "nominal value" in a situation where gifts are generally being distributed (e.g. exchange of small items between organisations at Christmas) or where the giver is from a different cultural background and refusal may cause offence; (Nominal value is considered to be \$100 or less.) If the value of the gift exceeds this amount it must be declared to the relevant Program

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Manager, and advice sought from the Executive Director as to the appropriateness of retaining the gift.

- Minor hospitality in the normal course of business such as a working lunch.
- Attendance as an invited guest at functions which should be undertaken in an 'ambassador' role for the ASC.

It is reasonable to accept an offer of free or subsidised travel where there is no real or potential conflict of interest, impropriety or likelihood of the provider of travel receiving an advantage. Free or subsidised travel may only be accepted in the following circumstances:

- as part of a pre-agreed business relationship between the ASC and a specific carrier;
- where an employee has been invited to attend an interstate or international conference or seminar and the organisers have agreed to fund the cost of travel.

Employees must not accept free or subsidised travel for non work-related use.

Frequent Flyer points accumulated on ASC related business cannot be used for private purposes.

### **3 Section 3: - Use of Australian Sports Commission Resources, Information and Intellectual Property and Computing Services**

#### **3.1 Use of ASC resources**

ASC resources are any items or services that have a financial impact on the ASC. These items include, but are not limited to:

- Money - Cab charge, credit cards, petty cash;
- Property - Sporting facilities, conference rooms, intellectual property;
- Utilities - Water, electricity, gas, telephones;
- Equipment - Photocopiers, printers, videos, cameras, computers, mobile phones;
- Services - Couriers, mailing, Athletes Dining Hall.

ASC resources should be used for official purposes only. All employees are encouraged to use whatever resources they need to do their jobs effectively in an efficient manner and with minimal waste.

In *some* circumstances it may be reasonable to use limited resources for personal or voluntary activities. The ASC relies on our employees to consider seriously the concept of 'reasonableness' and act accordingly. Employees must check with their Program Manager the appropriateness of any intended use of ASC resources for outside voluntary activities.

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For outside employment ASC resources may only be used where the General Manager/Director has given approval and, where practicable, the ASC is reimbursed the costs.

### **3.2 ASC Information and Intellectual Property**

Any information that is sourced, created, developed or enhanced by employees of the ASC in the course of duty using ASC resources is considered to be ASC information and must remain confidential within the organisation. This includes information that is commercially, competitively or politically sensitive, and any intellectual property resulting from the preparation of lectures, tutorials or presentations in any way associated with the ASC.

Information that is generally known to the community can be shared with outside individuals and organisations, subject to the guidelines on Public Comment (refer Section 2.3).

Employees should not use ASC information for personal commercial gain. Examples include the acceptance of royalty payments for material developed as part of employment at the ASC, or for technical specifications related to new equipment, products or methods.

In general, ASC information should not be shared with potential competitors. However there will be exceptions; for example, commercial consultancy activities or where the ASC has a relevant policy to increase international competition and sharing know-how would be useful. Use of any ASC information for this purpose must be approved prior to any sharing, by the General Manager, Business Operations.

For detailed information on Intellectual Property, please refer to the appropriate section of the ASC Commercial Practice Manual.

### **3.3 Use of ASC's Computing Services**

ASC's computing services include information technology, electronic mail, intranet/internet, SMS messaging, telephone and message services.

No ASC employee or contractor may:

- Upload, post, email or otherwise transmit any unsolicited or unauthorised advertising, promotional materials, "junk mail," "spam," "chain letters," "pyramid schemes," or any other form of solicitation.
- Download, upload, post, email or otherwise transmit any content that is unlawful, harmful, threatening, abusive, harassing, defamatory, vulgar, obscene, libelous,

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invasive of another's privacy, hateful, or racially, sexually, ethnically or otherwise objectionable or vilifying or which may harm minors in any way.

- Impersonate any person or entity, including, but not limited to, an ASC official, or falsely state or otherwise misrepresent an affiliation with a person or entity.
- Forge headers or otherwise manipulate identifiers in order to disguise the origin of any material transmitted through the Service.
- Upload, post, email or otherwise transmit any content in which an individual has no proprietary right or which is confidential information.
- Upload, post, email or otherwise transmit any content that infringes any patent, trademark, trade secret, copyright or other proprietary rights ("Rights") of any party.
- Download, Upload, post, email or otherwise transmit any material that contains software viruses or any other computer code, files or programs designed to interrupt, destroy or limit the functionality of any computer software or hardware or telecommunications equipment.
- Interfere with or disrupt the Service or servers or networks connected to the Service, or disobey any requirements, procedures, policies or regulations of networks connected to the Service.
- Intentionally or unintentionally violate any applicable local, state, national or international law.

### *3.3.1 Access and Monitoring*

The use of the internet and email at work is logged, and can be tracked, even after files have been deleted. The ASC regularly reviews usage to detect behaviour that may conflict with the use of the Service. (See separate IT Policies)

The ASC's monitoring can include;

- Internet usage;
- E-mail content and distribution;
- Access to disks, files and folders; and
- Login hours.

The relevant Program Manager will be notified of any situation where a breach of acceptable use has occurred.

Video cameras have been placed throughout the ASC site to assist in security processes relating to the use of ASC resources, ASC property and facilities and employee, athlete and public safety. Employees and contractors may be monitored by video cameras for theft and improper use of resources.

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### **3.4 Requirements at cessation of employment**

On cessation of employment, employees, associates and contractors are required to return all ASC resources including: keys, access cards, reports, working documentation (including files notes and memoranda), manuals, equipment, corporate credits cards, computer information (including CD ROMS, discs) and programs as well as any which have been installed on your home computer.

Former employees and contractors should not use ASC information for personal or commercial gain. Examples include the acceptance of royalty payments for material developed as part of employment at the ASC, or for technical specifications related to new equipment, products or methods. After an employee or contractor leaves the ASC, they must not use any ASC Intellectual Property or ASC information for any purpose unless they are authorised by the General Manager/Director to do so.

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### 4 Section 4: - Harassment

The ASC is committed to providing a work environment in which all employees are treated with respect, fairness and dignity. In addition the adhering to the ASC Values and Standards, we require all employees “*To value the well-being and diversity of our employees*”.

#### 4.1 What is Workplace Harassment?

Workplace harassment is offensive, belittling, bullying or threatening behaviour and is unlawful in any work-related context, including conferences, work functions, office Christmas parties and business or field trips. Harassment may be directed at an individual or group of workers.

While it may often be focused on the sexual, cultural or racial background or disability of the individual or group, workplace harassment can be exhibited in a wide range of circumstances and environments including in the inappropriate exercise of power, authority and influence in the conduct of activities.

Harassment is behaviour that is inconsistent with required standards of behaviour and is unwelcome, unsolicited and usually unreciprocated. It may arise in the context of a single incident or form part of repeated incidents or as a pattern of behaviours. It can be verbal, visual, or physical behaviour.

#### 4.2 Examples of Harassment

The following are examples of harassment:

- Physical contact or requests for sexual favors;
- Physical threats or acts;
- Persistent following (stalking);
- Suggestive looks implying a sexual interest;
- Persistently disrupting an individual’s work, work space, equipment or interfering with their personal property;
- Jokes, derogatory or dismissive comments;
- Languages or gestures that are insulting, belittling or threatening;
- Circulating, displaying written or pictorial material that is offensive or belittling;
- Preventing access to workplace facilities.

At its worst, sexual harassment can involve indecent exposure, obscene telephone calls and sexual assault. Sexual harassment and physical threats to people or property may

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also be reported to the Police for investigation as possible criminal offences. If you are in any doubt, discuss your concerns with an ASC Harassment Contact Officer.

It is important to note that harassment is based on the perception of the receiver. Workplace humor and jokes do not constitute harassing behaviour for some employees whilst others may find them offensive.

Workplace harassment should not be confused with advice or counseling on work performance or work-related behaviour of an individual or group which might include critical comments indicating performance deficiencies. Feedback or counseling on work performance or work-related behaviour differs from harassment. Feedback or counseling is intended to assist employees to improve work performance and will be constructive and provide advice and recommendations for employees.

### **4.3 ASC Obligations.**

To ensure that it complies with its obligations in relation to discrimination and harassment in the workplace, the ASC will:

- Distribute the ASC Code of Conduct to all employees;
- Facilitate ongoing awareness and education sessions for employees;
- Appoint at least four harassment contact officers and ensure that they are fully trained and that they attend regular update sessions;
- Implement timely and effective processes to mitigate and/or remedy cases of alleged harassment.

#### *4.3.1 Workplace Managers responsibility.*

Workplace managers/supervisors have a particular responsibility to:

- promote and support the ASC's Code of Conduct;
- model the standards of behaviour required;
- be vigilant in monitoring any signs of harassment in their work area;
- provide support to staff if they seek advice in dealing with workplace harassment, including provision of information about complaint and resolution mechanisms;
- refer complaints to another ASC employee where it is inappropriate or impossible for the workplace manager or supervisor to handle the issue;
- treat all complaints seriously and take immediate action to investigate and resolve them.

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### 4.3.2 *Employee responsibilities*

Employees have a shared responsibility to prevent workplace harassment and contribute to a productive work environment. All ASC employees must ensure that their own behaviour meets the identified Standards in Section 1.3

### 4.4 **Harassment Contact Officers (HCO)**

The responsibility of a HCO is to provide the following types of assistance and support to an employee in the process of identifying and resolving harassment issues, and to do so in an unbiased and objective manner.

- Offering support and listening to the employee's complaint.
- Informing the employee of their options in resolving the matter.
- Accompanying a complainant to see the alleged harasser or the appropriate supervisor.
- Accompanying a complainant to any hearing or inquiries.
- With an individual employee's permission, provide information and advice to the supervisor/manager of the concerned employee(s).

### 4.5 **The Resolution Process**

All employees are strongly encouraged to speak out against harassment should they witness it. If an employee feels that they have been subjected to harassing behaviour, they are encouraged to seek a resolution by adopting the methods below.

#### 4.5.1 *Informal means of resolution:*

Informal resolution of harassment or discrimination complaints is usually appropriate where the allegations are of a less serious nature or the individual wishes to pursue informal resolution. Informal resolution can involve the following steps:

- Discussion with a HCO to assist in confirming that workplace harassment has occurred if the employee is unsure about the issue
- The individual who has been subject to offending behaviour or actions:
  - seeking to deal with the situation themselves through informal discussion with the alleged harasser. If the harassment was unintentional, an informal discussion with the person responsible may solve the problem. (Advice on how best to do this can be obtained from various sources such as an HCO or ASC Human Resources); or
  - if they are uncomfortable approaching the alleged harasser directly, asking their supervisor to speak to the alleged harasser on their behalf or seek the advice and support of an HCO or ASC Human Resources.

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- A supervisor or manager observing unacceptable conduct occurring and taking independent action even though no complaint has been made.

An employee is not required to pursue or exhaust informal resolution of a problem before initiating formal investigation procedures to resolve the matter.

### 4.5.2 *Formal means of resolution*

A formal process for investigating the complaint and resolving the matter can be initiated in circumstances where an informal approach has not been successful or is not considered appropriate because of the seriousness the allegations.

Formal investigations will be undertaken in accordance with the processes set out in Section 6 of this Code of Conduct.

If an individual believes that at any stage their concerns are not being handled satisfactorily, they have the right to lodge a complaint with the Human Rights and Equal Opportunity Commission (HREOC).

Any allegation of harassment needs to be dealt with in a sensitive and discreet manner. Employees are to be made aware of the seriousness of the harassment allegations and that they will be discussed only with people whose job involves dealing with such complaints or who have management responsibilities of the employees involved.

## **5 Section 5: – Child protection**

Children have a fundamental right to be safe from any form of abuse whilst involved in sport or activities of the ASC. Child protection involves legal as well as moral obligations. In the ASC it is also governed by policy requirements applicable to all employees.

In practice, child protection requires a commitment from all levels in the ASC, to ensure our environments and practices are safe for all children. This includes an awareness of the legislative and policy requirements for dealing with children, a commitment to practices that minimise the risks to children and processes for responding appropriately and expeditiously to alleged incidents of child abuse.

### **5.1 What is child protection?**

Child protection is about keeping children safe from abuse and protecting them from people who are unsuitable to work with children. Under current child protection legislation, a child is generally defined as a person less than 18 years of age.

Child protection is a responsibility of all ASC employees and contractors. It is a particular responsibility of any employees or contractors whose work involves a direct relationship with children. This includes, but is not limited to, coaches, house parents, clinical and sports services personnel, swimming instructors and childcare workers.

### **5.2 What is child abuse?**

Child abuse relates to children at risk of harm. This could be due to:

- physical abuse including non-accidental injury and/or harm to a child;
- sexual abuse/sexual misconduct comprises any sexual act or sexual threat imposed on a child, including suggestive behaviour and inappropriate touching;
- emotional abuse comprises behaviours that may psychologically harm a child, including severe verbal abuse, and threats of abuse or excessive and unreasonable demands; or
- neglect including situations where a child is harmed by the failure to provide them with the basic physical and emotional necessities of life.

### **5.3 Is child protection an issue for the ASC and sport generally?**

Sport is a particularly vulnerable area for potential child abuse because it:

- involves a large number of people under the age of 18;
- frequently involves overnight trips; and

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- usually involves close relationships between adults and children, where the adults are in positions of trust and are able to assert authority and power over children

While our obligations toward protecting children are universal, there are particular activities conducted by the ASC that involve one or more of the above situations. These include, but need not be limited to camps, competitions, and community swimming programs or child-care.

Child abuse can range from inappropriate touching when demonstrating techniques, inappropriate training methods that give extra physical loads to children as ‘punishment’ and physical aggression when disciplining a child, through to sexual assault and sexual intercourse with a minor. Failure to treat children in accordance with the professional standards required of child care centre operations may also be regarded as child abuse.

The most common characteristics of all forms of abuse against children are an abuse of power or authority, or a breach of trust.

### **5.4 ASC requirements**

#### *5.4.1 Requirements for engagement*

All employees, contractors and others who have, or may have, direct contact with children as part of their employment or engagement in ASC programs and activities must sign a ‘Prohibited Employment Declaration’. They must also consent to, and be cleared for engagement through, any employment screening check as required by the ASC.

Employment or engagement with the ASC will be conditional on satisfying both requirements.

#### *5.4.2 Responding to Child Abuse*

Where child abuse is alleged or suspected, the ASC will take immediate steps to remove the real or potential threat to the child/children. The matter may be reported by the ASC to the police or relevant State or Territory authority.

In all instances that may indicate child abuse, the matter must be reported to an ASC Manager and the Manager, Human Resources. Appropriate confidentiality will be maintained.

Some employees are mandated by law to report child abuse to an external authority. A duty to report under the ASC Code of Conduct does not replace duty under other laws.

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### *5.4.3 Investigation of allegations of child abuse by an ASC employee or contractor*

Section 6 provides procedures for determining breaches of the Code of Conduct and for the conduct of formal investigations.

## **6 Section 6: - Procedures for Determining Breaches of the Code of Conduct**

### **6.1 Application of the Procedures**

Not every breach of the Code of Conduct must be the subject of a formal investigation and determination. A warning given by a manager or a counseling session may be more appropriate. The process used will be determined by the seriousness of the breach, and whether the breach is a repeat offence or an isolated incident.

#### *6.1.1 Procedural Fairness*

An investigation into alleged misconduct will provide to an employee:

- an opportunity to present their point of view before decisions are made;
- an opportunity to respond to any information in advance of a decision;
- transparency about the processes and information used to reach a decision/judgment.

#### *6.1.2 Harassment and Discrimination*

Procedures for dealing with allegations of harassment by less formal means are explained in Section 4. It is expected that these procedures would ordinarily be appropriate for dealing with less serious harassment issues and where the aggrieved person is comfortable with the process as a satisfactory means of resolution.

Some cases of harassment (such as sexual assault) may also be referred to the Police and be dealt with both as a criminal offence as well as a breach of the Code of Conduct.

#### *6.1.3 Child Protection*

Where it is alleged or suspected that child abuse has, or is occurring, or where in the opinion of the ASC there is a reasonable suspicion of child abuse, the ASC will take immediate steps to remove the real or potential threat to the child/children. In relation to possible criminal offences, the matter will be referred to the police.

Decisions and actions taken by the ASC in responding to child abuse will be expeditious and in all instances predicated on ensuring that the best interests of the child are the paramount consideration. In this regard, consideration will be given to any investigation by a relevant authority into the matter and the outcome of any such investigation.

#### *6.1.4 Anti-doping Policy*

The procedures set out in the ASC Anti-doping Policy concern the reporting and investigation of alleged anti-doping rule violations in connection with a sport. The sanctions that may be applied under this Policy focus on a person's involvement in or connection with sport activities. An individual who is investigated under the Anti-

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Doping Policy may also be investigated under the Code of Conduct. Where a breach of the Code of Conduct is identified sanctions may be applied.

### **6.2 Internal Investigation and determination of Minor Breaches of the Code of Conduct.**

Where a breach of the Code of Conduct is seen as a minor breach the relevant General Manager/Director will be notified. An internal investigation will be carried out by the relevant Program Manager. The Human Resources Manager will review the investigation and provide a recommendation to the General Manager/Director.

The recommendation may include;

- a warning, either informal or formal,
- a counseling session, or
- the conduct of a formal internal investigation.

The process used will be determined by the seriousness of the breach, the impact on the ASC and employees and whether the breach is a repeat offence or an isolated incident.

### **6.3 Formal Investigation and determination of Serious Breaches of the Code of Conduct.**

Where it is determined that the breach is of a serious matter, the following process will be invoked.

#### *6.3.1 Internal or External Investigation – Appointment of an Investigating Officer*

The Executive Director will appoint an Investigating Officer to investigate the facts and material relevant to the allegation(s).

The Investigating Officer will determine the manner in which the investigation will be held in order to uphold the principle of natural justice.

The investigation will be based on the information provided by the employee or employees making the allegation and other relevant persons, and the circumstances surrounding the incident.

#### *6.3.2 Suspension from Duty or re-Assignment to other Duties*

An employee who is alleged to have committed a serious breach of the Code of Conduct may be suspended from duty with or without pay until such times as the Executive Director has determined the matter following completion of a formal investigation, whether external or internal.

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A decision to suspend a person from duty or to re-assign them to other duties during an investigation will be exercised by the Executive Director in writing to the employee or employees concerned.

Should an employee be suspended without pay and a serious breach is not proven, then the employee will be reimbursed for the loss of pay.

Serious misconduct may also result in dismissal.

### *6.3.3 Report to the Executive Director*

The Investigating Officer shall provide a report to the Executive Director stating whether a breach of the code has occurred and recommend a course of action having regard to the seriousness of the breach and the circumstances involved.

A copy of the Report shall be provided to the employee alleged to have breached the Code.

### *6.3.4 Determination of the Matter*

Before a determination is made in relation to whether an employee has breached the Code of Conduct, the employee will be informed of the details of the suspected breach and the sanctions that may be imposed for Code of Conduct breaches.

The Executive Director will determine the action to be undertaken having regard to the report and recommendation (s) of the Investigating Officer. The Executive Director may request additional information be provided by the Investigating Officer prior to a determination being made. The Executive Director will inform the employee in writing of the sanction to apply.

## **6.4 Sanctions available under the Code of Conduct**

The following sanctions may be imposed on an ASC employee who is found to have breached the Code of Conduct.

- Informal Warning;
- Formal Warning;
- A reduction in classification;
- Re-assignment of duties;
- Termination of employment;
- A reduction in salary;
- Deductions from salary, by way of a fine; or

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- A reprimand.

Until and unless it has been determined through an investigation that the Code of Conduct has been breached, sanctions will not be imposed on an employee.

### **6.5 Review of Actions**

Procedures in section 6.3 of the Code of Conduct are designed to implement the rights set out in the Review of Actions clause in any ASC Certified Agreement or Australian Workplace Agreement.