



Swimmer & Team Member

Code of Conduct

Swimmer and Team Member Code of Conduct

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Swimmer and Team Member Code of Conduct

This Swimmer and Team Member Code of Conduct has been designed to ensure that athletes and other team members understand the behavioural standards and conduct that are expected of them as members of the Australian swimming community.

1. INTRODUCTION

This Code of Conduct, together with the Swimming Australia policies and agreements set out in section 3 below, comprise the overall framework within which athletes and other team members are engaged by Swimming Australia.

Unless otherwise provided, a defined term in this Code of Conduct has the same meaning as that given to it in the 'Swimming Australia Team Member Agreement' or Swimmer Agreement (as applicable) (**Team Agreement**).

For the avoidance of doubt, this Code of Conduct is titled 'Swimmer and Team Member Code of Conduct' to emphasise that individuals who have entered into or are bound by either a Swimmer Agreement (ie swimmers) or a Team Agreements (eg coaches and support staff) are bound by the Policy. For brevity, this Code of Conduct refers to parties who are bound by the Policy as 'Relevant Persons' as defined below.

2. APPLICATION OF THE CODE OF CONDUCT

- (a) This Code of Conduct applies to:
- (i) members of a Swimming Australia Team;
 - (ii) individuals who have entered into, or are bound by, a Team Agreement;
 - (iii) individuals who have entered into, or are bound by, a Swimmer Agreement; and
 - (iv) any individual who expressly agrees in writing to comply with this Code of Conduct,
- (together, **Relevant Person**).
- (b) For the purposes of this Code of Conduct, 'Team' means any team of swimmers and support staff (including but not limited to coaches and Swimming Australia employees) selected or appointed and otherwise designated by Swimming Australia as the "Australian Swim Team" or the "Australian Swim Squad" or any other applicable team or squad selected by Swimming Australia which is representing Swimming Australia at any team activity including training sessions, camps, competitions, functions and any event determined by Swimming Australia to be a team activity from time to time.
- (c) In addition to the team activities referred to in clause 2(b), this Code of Conduct also applies when Relevant Persons attend or participate in any

Swimming Australia, Fédération internationale de natation (**FINA**), Commonwealth Games Australia Limited (**CGA**), Australian Olympic Committee (**AOC**) or Australian Paralympic Committee (**APC**) sanctioned competition (whether within Australia or overseas).

- (d) In the case of attending or participating in either the Paralympic Games, Olympic Games or the Commonwealth Games, the Code of Conduct and the Key Documents shall operate in conjunction with the AOC, APC, CGA and University Sport Australia (USA) prevailing agreements, policies, procedures and codes of conduct. In the event of any inconsistency or conflict in the interpretation or application, the AOC, APC, CGA or USA prevailing agreements, policies, procedures and codes of conduct shall apply.

3. KEY DOCUMENTS

- (a) This Code of Conduct shall be read in conjunction with the following Swimming Australia policies and agreements (**Key Documents**):
- (i) Team Agreement;
 - (ii) Swimmer Agreement;
 - (iii) Ethical Framework;
 - (iv) Safe Sport Framework;
 - (v) Reimbursement Policy;
 - (vi) Team Member Uniform Policy;
 - (vii) Supplements Policy;
 - (viii) Gambling and Anti-Race Fixing Policy;
 - (ix) Anti-Doping Policy;
 - (x) Illicit Drugs Policy;
 - (xi) Media Relations Policy;
 - (xii) Social Media Policy;
 - (xiii) Consumption of Alcohol Policy;
 - (xiv) Overseas Travel During COVID 19 Policy; and
 - (xv) Team Staff Payment Policy.
- (b) A copy of the Key Documents will be uploaded onto the application used by Swimming Australia known as 'Playbook' for Swimmers to access as part of their induction program, or alternatively all specified policies can be accessed and downloaded at any time from the Swimming Australia website.
- (c) Relevant Persons are encouraged to read the Key Documents thoroughly and to seek legal or financial advice prior to signing the relevant documents should they have any queries or concerns.

- (d) Subject to clause 3(e) below, for the avoidance of doubt, the behaviour standards set out in this Code of Conduct shall apply in addition to any such behavioural principles, standards or obligations set out in any of the Key Documents.
- (e) Subject to clause 3(f) below, to the extent of any inconsistency between the Code of Conduct and any Key Documentation, the relevant Key Documentation will prevail to the extent of the inconsistency.
- (f) All disciplinary matters relating to breaches of the Code of Conduct and each of the documents comprising the Key Documentation must be dealt with under the procedure set out in clauses 7 and 8 of this Code of Conduct.

4. STANDARDS OF BEHAVIOUR

As a Relevant Person you are responsible for observing and complying with the following behavioural standards that are binding upon you for the duration of your Team Agreement or Swimmer Agreement (as applicable):

(a) **Act lawfully, professionally and responsibly.**

- (i) Act responsibly and uphold the highest standards of professional conduct in a way that is consistent with and upholds the Ethical Framework.
- (ii) Behave in a manner that enhances and supports the good reputation of Swimming Australia.
- (iii) Act with care and diligence and in a manner that is conducive to the health and safety of yourself and fellow Relevant Persons or Swimming Australia employees, officials, volunteers, spectators, sponsors, key stakeholders and supporters of Swimming Australia (**Associated Parties**).
- (iv) Do not have in your possession or use any form of illegal weapon at any time on Swimming Australia premises or at any Swimming Australia or other FINA sanctioned event, competition or activity.
- (v) Where an ongoing relationship has been established between Relevant Persons, the Relevant Persons involved shall at all times ensure they:
 - (A) do not engage in any form of behaviour, which though it might be consensual, may interfere with the working environment or offend a Relevant Person;
 - (B) do not display excessive intimate physical affection in public, or engage in continuous personal communication while performing normal duties;
 - (C) conduct any intimate contact in their relationship in their own time and separately from their duties and obligations with Swimming Australia; and
 - (D) act professionally and responsibly at all times when on Swimming Australia premises or at any Swimming Australia or other FINA sanctioned event, competition or activity.

(b) Treat people equally and with respect

- (i) Maintain respect for yourself as this will form a strong basis for respecting others.
- (ii) Work co-operatively with fellow Relevant Persons and Associated Parties.
- (iii) Treat fellow Relevant Persons and Associated Parties with respect and dignity, regardless of their cultural or contextual circumstances and observe and acknowledge that respect for others changes according to cultural and contextual boundaries.
- (iv) Do not make unwelcome or discriminatory comments or take unwelcome or discriminatory actions against any Relevant Person or Associated Party in relation to an attribute including (but not limited to):
 - (A) their gender or gender identity;
 - (B) sexual orientation;
 - (C) disability/impairment;
 - (D) marital status;
 - (E) political and/or religious belief or activity;
 - (F) race;
 - (G) status as a parent or carer;
 - (H) age;
 - (I) physical features;
 - (J) pregnancy, potential pregnancy and/or breastfeeding; or
 - (K) any other attribute prescribed under any one or more Commonwealth or State/Territory anti-discrimination statute.
- (v) Do not engage in harassing or offensive behaviour with any other Relevant Person or Associated Party in areas including (but not limited to):
 - (A) making persistent, unwelcome demands of a sexual nature (especially after prior refusal);
 - (B) constantly requesting meetings or dates (especially after prior refusal);
 - (C) physically touching or being unnecessarily familiar;
 - (D) making offensive or inappropriate comments about physical appearance, dress or private life;
 - (E) sending sexually explicit or offensive text messages, emails, or calls; and

- (F) asking intrusive questions or making comments about a person's private life or making reference to a person's sexuality or physical appearance.
- (vi) Do not engage in any form of bullying, harassment or vilification that is designed to deliberately demean, insult, humiliate or unnecessarily embarrass a fellow Relevant Person or Associated Party in areas including (but not limited to):
 - (A) making hurtful, demeaning or disparaging remarks on one or more occasions to them in private or in public;
 - (B) making fun of their abilities, results or performances on one or more occasions in private or in public;
 - (C) making them perform humiliating or inappropriate activities in order to be accepted as a part of a swimming team; and
 - (D) excluding or stopping them from performing their normal swimming schedules, working with other people or participating in regular team activities.
- (vii) Do not at any time divulge the private contact details or any other material (including images) reasonably considered private to a fellow Relevant Person or Associated Party without their prior permission.

(c) Demonstrate Integrity and Sportsmanship

- (i) Promote the integrity of the sport of swimming and Swimming Australia during training, competition and public engagements.
- (ii) Obey the officials, rules and spirit of the sport of swimming.
- (iii) Perform and react with dignity regarding decisions of officials.
- (iv) Compete with humility in the face of all outcomes.
- (v) Positively participate in the building and maintenance of partnerships by the quality of your interactions with Swimming Australia partners and sponsors.

(d) Observe the expectations of being a role model

- (i) Be a positive role model for swimming and promote the values, rules and spirit of swimming.
- (ii) Take reasonable care when travelling and wearing Swimming Australia apparel to ensure the highest reputation is upheld.
- (iii) Behave in a way that meets community expectations of a Relevant Person and be cognisant of one's behaviour at all times.
- (iv) Behave in a dignified manner in your private life and use discretion and good judgment to ensure neither you nor the sport of swimming, Swimming Australia, your fellow Relevant Persons and Associated Parties are undermined and/or brought into disrepute by your actions.

- (v) Do not become involved in any act, controversy, scandal, ridicule or contempt that brings or might bring your reputation or the reputation of Swimming Australia, your fellow Relevant Persons or Associated Parties into disrepute.

(e) Observe and respect Swimming Australia's authority and protect its reputation

- (i) Comply with all lawful directions that may be issued to you by an authorised representative of Swimming Australia and follow and observe the obligations set out in the Key Documentation.
- (ii) Do not give or disclose, directly or indirectly, any information to others about Swimming Australia's business or operations, including those of a Swimming Australia Team and any of its Relevant Persons unless you have been expressly authorised to do so.
- (iii) Do not provide false or misleading information to Swimming Australia or any authorised Swimming Australia representative.
- (iv) Do not steal or deliberately damage Swimming Australia equipment, files, records or property.
- (v) Do not deliberately mislead, defraud or assist another person to steal or defraud fellow Relevant Persons or Associated Parties.
- (vi) Immediately inform Swimming Australia if you are charged with a criminal offence.

5. EXAMPLES OF HOW TO COMPLY WITH THE CODE OF CONDUCT

The illustrations outlined in this section are not exhaustive, and the fact that particular conduct is not addressed by these examples does not indicate that Swimming Australia endorses it as either complying with or contravening the Code of Conduct. These examples are offered as an illustration of the Code of Conduct in practice. It is strongly encouraged that the individual always aspires to the highest possible standards of conduct.

(a) Act lawfully, professionally and responsibly

Relevant Persons are encouraged to:

- (i) present in a professional manner during public engagements and dressing appropriately for the respective engagement;
- (ii) remember that you are representing your country and ensure that your conduct reflects the image of a Relevant Person; and
- (iii) notify Swimming Australia if you observe a safety hazard that may adversely affect Associated Parties.

Relevant Persons should not:

- (i) behave in a manner that puts the safety or well-being of yourself or Associated Party or Relevant Person at risk;

- (ii) deliberately lie or omit to tell the truth when communicating with Swimming Australia on any matter that involves Swimming Australia and/or any other Relevant Person; or
- (iii) use offensive language, become aggressive or act in any other manner which is unbecoming of themselves or Swimming Australia.

(b) Treat people equally and with respect

Relevant Persons are encouraged to:

- (i) show concern, empathy and caution towards Associated Parties who may be sick or injured;
- (ii) be culturally sensitive and educate oneself about cultural awareness; and
- (iii) treat Associated Parties fairly, with courtesy and proper regard for their rights and reputation.

Relevant Persons should not:

- (iv) make fun of the abilities of other Relevant Persons' results or performances either in private or public;
- (v) use abusive language to deliberately cause offence or to bully or intimidate a Relevant Person or Associated Party; or
- (vi) tell a joke, send an email or text message to a Relevant Person or Associated Party which could be interpreted as harassing, discriminatory, bullying or offensive.

(c) Demonstrate Integrity and Sportsmanship

Relevant Persons are encouraged to:

- (i) abide by both the rules and spirit of the sport of swimming;
- (ii) show due regard for the equipment, property and facilities provided by Swimming Australia; and
- (iii) be honest and truthful in your communications with Swimming Australia and Associated Parties.

Relevant Persons should not:

- (iv) make inappropriate and/or excessive complaints to officials or show excessive dissent towards officials' decisions during competition or selection processes;
- (v) behave in excessively haughty and arrogant ways towards other competitors and/or spectators; or
- (vi) publicly disparage the sport of swimming or Swimming Australia.

(d) Observe the expectations of being a role model

Relevant Persons are encouraged to:

- (i) remind themselves of their status as a role model in the community when wearing (including when travelling) Swimming Australia apparel and conduct themselves accordingly;
- (ii) detect any potential scandal or controversy and immediately take steps to ensure they do not become involved; and
- (iii) avoid exposing themselves to situations where there may reasonably be expected to be unruly behaviour, alcohol, or illegal substances being consumed.

Relevant Persons should not:

- (i) engage in damaging private behaviour that has the capacity to detract from the reputation of Swimming Australia;
- (ii) behave in a manner that creates a public nuisance, and/or public disturbance (including but not limited to behaviour during domestic or international travel); or
- (iii) engage in bullying or intimidating behaviour towards a fellow Relevant Person or Associated Party.

(e) Observe and respect Swimming Australia's authority and protect its reputation

Relevant Persons are encouraged to:

- (i) be honest with Swimming Australia in their dealings and not disclose to any party any confidential matters discussed during such dealings; and
- (ii) treat all equipment owned by Swimming Australia with care as if it were their own and always return it in the same state as when they received it.

Relevant Persons should not:

- (iii) provide false or misleading information at the time of entering into your Team Agreement, or those of the AOC and/or CGA, with Swimming Australia or in the course of your engagement with Swimming Australia;
- (iv) steal or deliberately damage Swimming Australia equipment, files, records or property; or
- (v) deliberately mislead defraud or assist another person to steal or defraud Swimming Australia or Relevant Persons.

6. COMPLAINTS

Relevant Persons acknowledge that it is the right of any person to lodge a complaint concerning an alleged breach of the Code of Conduct and that regardless of whether you are the complainant, the person who is complained about, a witness to an

incident that has initiated a complaint or a member of a team who becomes aware by whatever communication of the complaint, that you shall be obliged to:

- (a) not disclose to any person, including to the person who has lodged a complaint, your knowledge of the existence of the complaint that was lodged or any details of the allegations that you may be aware of;
- (b) not communicate with the complainant, any potential witness, or the person about who the complaint is lodged, whether asked to do so by a party involved in the complaint or on your own volition;
- (c) approach the Integrity Officer to report if you believe you have first-hand knowledge about the circumstances that led to the complaint; and
- (d) co-operate fully to offer your truthful version of events to the Integrity Officer to allow a comprehensive, transparent investigation into the circumstances of what occurred that could have initiated the complaint.

7. DISCIPLINARY PROCEDURES

(a) REPORTING AN ALLEGED BREACH OF THE CODE OF CONDUCT

- (i) Any person who intends on reporting any alleged breach of the Code of Conduct (**Reporting Party**) shall in the first instance report the alleged breach to the Head of Integrity and Risk at Swimming Australia (or their delegate) (**Integrity Officer**).
- (ii) An allegation may include but is not limited to:
 - (A) information that a Relevant Person has breached the Code of Conduct or any of the Key Documents, towards a Reporting Party; or
 - (B) information that a Relevant Person has breached the Code of Conduct or any of the Key Documents, as witnessed by the Reporting Party; or
 - (C) information that a Relevant Person has breached the Code of Conduct or any of the Key Documents, as notified to the Reporting Party from a third party, internal or external to Swimming Australia.
- (iii) Upon notification of an alleged breach from a Reporting Party the Integrity Officer shall, in the first instance:
 - (A) clarify with the aggrieved person if they have made their concerns/issues known to the person against whom the complaint has been lodged (**Concerned Party**);
 - (B) clarify with the aggrieved person if in the first instance they would prefer the Integrity Officer to attempt to satisfactorily resolve the matter between the parties on an informal basis; and
 - (C) clarify with the aggrieved person if the person against whom the complaint has been made is their immediate manager or

another senior executive/official therefore making points (A) and (B) impractical to achieve.

- (iv) Where point (B) above is applicable and is subsequently proven to be ineffective, or in the case of point (C), at the specific request of the aggrieved person they shall complete and submit a formal written complaint identifying the general particulars of the incident which is the subject of the complaint and the person whom the complaint concerns, for signature and authorisation prior to being submitted to the Integrity Officer.
- (v) A Reporting Party formally reporting an allegation will only be identified to the Concerned Party where it is necessary to do so to ensure procedural fairness in the course of investigating the allegation.

(b) CATEGORISING AN ALLEGED BREACH OF THE CODE OF CONDUCT

Following receipt of a report (and based upon the extent of the evidence provided by the Reporting Party), the Integrity Officer shall initially undertake an assessment of the seriousness of the allegation and categorise the allegation as being either minor, intermediate or serious. The assessment of the seriousness of the conduct the subject of the allegation may be determined by reference to the following guide. Please note that this guide is not exhaustive and other factors may need to be taken into consideration.

- (i) **Minor breach:** the conduct caused disruption or inconvenience to Swimming Australia and/or another person or party including but not limited to Relevant Persons and Associated Parties; a person was mildly offended or made to feel uncomfortable as a result of the conduct.
- (ii) **Intermediate breach:** the conduct inflicted moderate physical or mental harm upon another person; mid-level loss or damage, including reputational damage, was sustained or is likely to be sustained by any party including but not limited to Swimming Australia, Relevant Persons and Associated Parties as a result of the conduct; and any other moderate adverse consequences suffered by Swimming Australia, a Relevant Person and/or Associated Parties arising from the conduct.
- (iii) **Serious breach:** the conduct inflicted serious physical or mental harm upon another person; significant loss or damage, including reputational damage, was sustained or is likely to be sustained by any party including but not limited to Swimming Australia, Relevant Persons and Associated Parties as a result of the conduct; and any other serious adverse consequences suffered by Swimming Australia, a Relevant Person and/or Associated Parties arising from the conduct.

(c) EXAMPLES OF CLASSIFICATION

In categorising the breach, the Integrity Officer may, but is not required to, use the following indicative examples as a guide. For the avoidance of doubt, the following examples relate to breaches of the Code of Conduct, and should not be used as a guide for breaches of other Key Documents:

Minor Allegation

- (i) being late for a team meeting on one occasion without a reasonable and valid excuse;
- (ii) failing to attend competition sessions without prior permission (when not racing) on more than one occasion without a valid and reasonable excuse;
- (iii) breaching team curfews on one occasion; and
- (iv) divulging the private contact details of a Relevant Person without their prior permission.

Intermediate Allegation

- (i) being late for team meetings on a consistent and regular basis;
- (ii) failing to attend competition sessions without prior permission (when not racing) on a consistent and regular basis;
- (iii) breaching team curfews on a consistent and regular basis;
- (iv) breaching standards on personal relationships on more than one occasion;
- (v) divulging the private contact details of a fellow Relevant Person or Associated Party without their prior permission on a recurring basis;
- (vi) behaving in a manner that effects the preparation of yourself or another swimmer;
- (vii) behaving in a manner that puts the safety or well-being of yourself or another Relevant Person or Associated Party at risk;
- (viii) making negative or inappropriate remarks about Swimming Australia or another Relevant Person or Associated Party on any public or private forum;
- (ix) using abusive language towards another Relevant Person; and

Serious Allegation

- (i) Sexually harassing another Relevant Person or Associated Party;
- (ii) Discriminating against another Relevant Person or Associated Party;
- (iii) Bullying or vilifying another Relevant Person or Associated Party;
- (iv) Physically striking or assaulting another Relevant Person or Associated Party;
- (v) Providing false or misleading information at the time of entering into your Swimmer Agreement or Team Agreement, or those of the

AOC and/or CGA, with Swimming Australia or in the course of your engagement with Swimming Australia;

- (vi) Stealing or deliberately damaging Swimming Australia equipment, files, records or property;
- (vii) Deliberately misleading defrauding or assisting another person to steal or defraud Swimming Australia, Relevant Persons or Associated Parties;
- (viii) Being in possession of or using any form of illegal weapon at any time on Swimming Australia premises or at any Swimming Australia event, competition or activity;
- (ix) Breaching standards on personal relationships on a consistent and regular basis.

(d) DOCUMENTING DETAILS AND DISCUSSING WITH CONCERNED PARTY

Once the Integrity Officer has completed their initial categorisation of the allegation, prior to proceeding any further they shall:

- (A) Document the details of the allegation.
- (B) In the case of an allegation made within Australia discuss the incident and the initial categorisation of the allegation with the relevant Swimming Australia General Manager (or equivalent).
- (C) In the case of an allegation made whilst overseas at a competition or camp, discuss the incident and the initial categorisation of the allegation with the team leader of the competition or camp (**Team Leader**).
- (D) In the case of any allegation that has been initially categorised as serious, additionally discuss the incident and the initial categorisation with the Swimming Australia Chief Executive Officer.
- (E) In the case of any Minor or Intermediate allegation where agreement cannot be reached with either the relevant Swimming Australia General Manager (or equivalent), or Team Leader, discuss the incident and the categorisation with the Swimming Australia Chief Executive Officer.

(e) NOTIFYING THE CONCERNED PARTY

- (i) Once the initial categorisation of the allegation has been completed (as previously outlined in 7(a)(iv)), the Integrity Officer and the relevant Swimming Australia General Manager (or equivalent) or Team Leader will contact the Concerned Party or in the case where the Concerned Party has not yet attained the age of 18 years, their "Support Person" (defined below) in order to advise them:
 - (A) that a report has been lodged with an Integrity Officer;

- (B) the initial categorisation of the allegation that has been completed;
 - (C) of any interim measures that need to be put in place to protect the Complainant and/or the Concerned Party;
 - (D) of the strict obligation that the Concerned Party is obliged to keep both the facts and any details of the report (disclosed by the Integrity Officer) strictly confidential and that the Concerned Party is not to otherwise communicate with the Complainant or any relevant witnesses or other Relevant Persons regarding the report to allow the investigation of the Complaint to be made; and
 - (E) it will be a breach of the Code of Conduct for a Concerned Party to contact a Complainant or a potential third party witness or to otherwise try to influence an investigation undertaken by an Integrity Officer as a result of a report submitted by a Complainant.
- (ii) A support person will typically be:
- (A) if available, a parent or legal guardian;
 - (B) a family member or extended family member over 18 years of age;
 - (C) a Swimming Team Leader chosen by the Relevant Person who is under 18 years of age if the communication occurs outside Australia; or
 - (D) a person chosen by the Team Leader such as the Team Psychologist or Athlete Wellbeing & Engagement Manager
- (together, **Support Person**).

(f) INVESTIGATING AN ALLEGED MINOR OR INTERMEDIATE BREACH OF THE CODE OF CONDUCT

- (i) Once the process outlined in clauses 7(e) and 7(f) has been completed, the Integrity Officer will undertake a thorough and confidential investigation which may incorporate the conduct of interviews with any nominated witnesses, the Concerned Party and thereafter any witnesses they may request before preparing a detailed incident report of their findings (which shall subsequently be securely filed for future reference) (**Incident Report**).
- (ii) Once the Integrity Officer has completed their investigation, prior to proceeding any further they shall:
 - (A) In the case of an allegation made within Australia discuss the Incident Report and their findings with the relevant Swimming Australia General Manager (or equivalent).
 - (B) In the case of an allegation made while overseas at a competition or camp, discuss the Incident Report and their findings with the Team Leader.

- (C) In the case of any Minor or Intermediate allegation where agreement cannot be reached with either the relevant Swimming Australia General Manger (or equivalent), or the Team Leader, discuss their Incident Report and findings with the Swimming Australia Chief Executive Officer.

(g) **SANCTIONING A MINOR OR INTERMEDIATE BREACH OF THE CODE OF CONDUCT**

- (i) In the case of a Minor or Intermediate allegation where the Integrity Officer finds that on the balance of probability the allegation **cannot be substantiated**:
 - (A) In the case of an allegation made within Australia, the Integrity Officer will inform the Concerned Party that the allegation has not been substantiated and that the matter is closed.
 - (B) In the case of an allegation made whilst overseas at a competition or camp, the Team Leader (as requested by the Integrity Officer) will inform the Concerned Party that the allegation has been unsubstantiated and that the matter is closed.
- (ii) In the case of a Minor or Intermediate Allegation where the Integrity Officer finds that on the balance of probability the allegation is **substantiated**:
 - (A) In the case of an allegation made within Australia:
 - (1) The Integrity Officer will recommend the appropriate sanction to the Swimming Australia Chief Executive Officer for approval.
 - (2) The Integrity Officer will inform the Concerned Party of the proposed sanction to be applied, and give the Concerned Party the opportunity to put forward any matters relevant to the sanction that the Concerned Party believes should be applied, directly following which the Integrity Officer shall consider those matters and shall inform the Concerned Party of their decision regarding the sanction to be implemented immediately thereafter.
 - (3) The Integrity Officer will arrange for a record of the Incident Report and the sanction decision to be filed in electronic and hard copy files.
 - (4) The Integrity Officer or Team Leader may, if appropriate in the circumstances, inform the Reporting Party of the finding of the Incident Report and/or the sanction imposed.
 - (B) In the case of an allegation made whilst overseas at a competition or camp where it is not practical to seek prior approval from the Swimming Australia Chief Executive Officer:

- (1) The Team Leader will approve the appropriate sanction and inform the Swimming Australia Chief Executive Officer as soon as possible thereafter.
- (2) The Team Leader (as requested by the Integrity Officer) will inform the Concerned Party of the proposed sanction to be applied, and give the Concerned Party the opportunity to put forward any matters relevant to the sanction that the Concerned Party believes should be applied, directly following which the Swimming Australia General Manager (or equivalent) and the Integrity Officer shall consider those matters and shall inform the Concerned Party of their decision regarding the sanction to be implemented immediately thereafter.
- (3) The Team Leader (together with the Integrity Officer) will arrange for a record of the Incident Report and the sanction decision to be filed in electronic and hard copy files.
- (4) The Integrity Officer may, if appropriate in the circumstances, inform the Reporting Party of the finding of the Incident Report and/or or the sanction imposed.

(h) INVESTIGATING AND SANCTIONING OF AN ALLEGED SERIOUS BREACH OF THE CODE OF CONDUCT

- (i) Upon receipt and consideration of the Incident Report completed by the Integrity Officer, (and other than in the case of an anti-doping allegation which shall be referred to Sport Integrity Australia), the Chief Executive Officer will appoint an appropriate person to independently investigate the serious allegation (**Investigating Officer**), who may be:
 - (A) the Integrity Officer;
 - (B) a senior Swimming Australia executive member or manager;
or
 - (C) an independent, external person with appropriate and relevant experience in the investigation of complaints.
- (ii) Should it subsequently become apparent that the investigation (whether being conducted by Swimming Australia, an external person or Sport Integrity Australia) may take a prolonged period to complete, following discussions with either the Integrity Officer or in the case of an overseas competition or camp the Team Leader, the Chief Executive Officer may decide to suspend the Concerned Party from their normal duties (without any loss of normal payments) until a thorough and confidential investigation has been completed.

- (iii) Once the investigation has been completed, the Investigating Officer shall prepare an Investigation Report for the Swimming Australia Chief Executive Officer.
- (iv) Where the Chief Executive Officer finds that on the balance of probability the allegation **cannot be substantiated**:
 - (A) In the case of an allegation made within Australia, the Chief Strategist, High Performance will inform the Concerned Party that the allegation has been unsubstantiated and that the matter is closed.
 - (B) In the case of an allegation made whilst overseas at a competition or camp, the Team Leader will inform the Concerned Party that the allegation has been unsubstantiated and that the matter is closed.
- (v) Where the Chief Executive Officer finds that on the balance of probability the allegation is **substantiated** they will:
 - (A) In the case of any matter relating to Swimming Australia's Safe Sport Framework, refer the allegation to a Hearing Tribunal under the Member Protection Policy or the Safeguarding Children and Young Person Policy (as applicable).
 - (B) In the case of any other matter (other than anti-doping), refer the allegation to the Integrity Panel established under clause 43.7 of the Swimming Australia Constitution (**Integrity Panel**) for review.
- (vi) The Chief Executive Officer (accompanied by the Integrity Officer or Team Leader) will conduct a formal interview where the Concerned Party will be provided with an opportunity to respond to the allegation and the subsequent investigation.
- (vii) Based upon the outcomes of the interview set out in (vi) and either the appointed Hearing Tribunal or the Integrity Panel, in conjunction with the Integrity Officer or in the case of an overseas competition/camp the Team Leader, the Chief Executive Officer will determine the appropriate sanction.
- (viii) The Chief Executive Officer (accompanied by the Integrity Officer or Team Leader) will inform the Concerned Party of the sanction to be applied, which shall be implemented immediately thereafter.
- (ix) The Integrity Officer will arrange for a record of the investigation report and the sanction decision to be filed in an electronic and hard copy file.
- (x) The Integrity Officer may, if appropriate in the circumstances, inform the Reporting Party of the finding of the Investigation Report and/or or the sanction imposed.
- (xi) At all stages of an investigation, the rights of persons who have not yet achieved the age of 18 years (**Minor**) will be strictly protected

by communication with that person, which will either be through or in the presence of a Support Person (refer to clause (e)(ii) above).

(i) BOARD REPORTING

The Chief Executive Officer will submit a report, via the High Performance Committee, on all incidents investigated in accordance with these Disciplinary Procedures to the Swimming Australia Board at the next available Board meeting.

(j) SANCTIONS FOR SUBSTANTIATED COMPLAINTS

The range of sanctions which are available in the event a sanction is imposed are as follows:

- (A) a verbal or written reprimand;
- (B) a direction to deliver an apology in writing or verbally to any aggrieved party;
- (C) a direction to pay for repairing damage to property or replacing damaged property;
- (D) a direction to attend education, training or any other type of support program to address the behaviour;
- (E) community service;
- (F) suspension in part or full of swimmer, coach, or professional services payments;
- (G) a financial penalty;
- (H) termination of the Swimmer Agreement, or employment agreement at a date to be fixed;
- (I) immediate cancellation of the Team Agreement resulting in the team member being sent home from competition within Australia or outside Australia; or
- (J) any other penalty deemed appropriate in the circumstances.

The following factors should be considered together with any other factors that are relevant in each particular circumstance when determining the sanction:

- (i) age;
- (ii) length of time on the Team;
- (iii) record of offences committed previously including the most recent offences;
- (iv) previous sanctions applied;
- (v) the impact of the offence on any third party;

- (vi) the impact of the offence on the Team if the offence was committed during a Team event or trip;
- (vii) the sanctions prescribed by a statutory body such as Sport Integrity Australia which are applicable to the offence;
- (viii) the impact on the Relevant Person of the imposition of a financial penalty in the Relevant Person's circumstances;
- (ix) any actions taken which demonstrate genuine remorse shown by the Relevant Person; and
- (x) the obligation to impose a sanction that is a general deterrent to the particular behaviour.

8. RELEVANT PERSONS RIGHT OF APPEAL

- (a) Where the Concerned Party is aggrieved about any finding or sanction imposed either under this Code of Conduct or in relation to a determination made by Swimming Australia under a term of the Swimmer Agreement or Team Agreement (as applicable), within 14 days of receipt of the dated sanction notice, the Concerned Party may formally request (in writing) that the Swimming Australia Chief Executive Officer arrange for an independent evaluation of the decision or of the sanction or of both (**Appeal Request**).
- (b) An Appeal Request may only be made if there is a reasonable possibility of the Independent Reviewer finding:
 - (i) the original decision-maker failed to abide by the relevant disciplinary procedures and such failure resulted in a denial of natural justice;
 - (ii) there was no material on which the original decision-maker's decision could reasonably be based; and/or
 - (iii) the sanction imposed was manifestly excessive.
- (c) On receipt of the Appeal Request, the Swimming Australia Chief Executive Officer will provide to the Concerned Party a list of three (3) names of individuals who have the requisite skills to review the decision and/or the sanction imposed by Swimming Australia (**Independent Reviewer**), and the Concerned Party shall select one of the names provided. This step will not apply to the process of appeal when it is lodged outside Australia when the Australian Swim Team is travelling, training or competing in which case the provisions of clause 8(k) will apply.
- (d) In the event that the Concerned Party does not select one of the names provided by the Swimming Australia Chief Executive Officer and fails to nominate a mutually agreeable Independent Reviewer within seven (7) days of receiving the list of names from the Swimming Australia Chief Executive Officer, the appointment of a mutually agreed external person to conduct the investigation will be the person nominated by the Chair of Sport Australia or his or her delegated staff member and this nomination will be binding on both Swimming Australia and the Concerned Party.

- (e) The review by the Independent Reviewer will be in the nature of a re-hearing and the Concerned Party will be entitled to present further evidence which may include the Concerned Party meeting with the Independent Reviewer and the Concerned Party shall be required to be available within fourteen (14) days for that purpose. Alternatively, the hearing may be held 'on the papers' whereby all relevant information is submitted to Swimming Australia to be provided to the Independent Reviewer for determination prior to the hearing and no parties or witnesses shall attend the hearing in person.
- (f) Irrespective of whether the hearing is held in person or on the papers, the Concerned Party may prepare written submissions to be submitted to the Independent Reviewer.
- (g) Thereafter, the Independent Reviewer will conduct a thorough investigation of the finding and/or the sanction and will provide a recommendation to the Swimming Australia Chief Executive Officer in writing as to the appropriateness of the finding or sanction and the finding on the decision or sanction that the Independent Reviewer has made.
- (h) The finding of the Independent Reviewer in relation to the decision and sanction is final and binding on both parties.
- (i) Following consultation with the relevant Swimming Australia General Manager (or equivalent) or the Team Leader and the Swimming Australia Integrity Panel, the Swimming Australia Chief Executive Officer will inform the Concerned Party of Swimming Australia's decision which shall be confirmed in writing.
- (j) The Independent Reviewer will be a person who has experience in sport directorship or administration or both and will not be a current paid employee, contractor or consultant of Swimming Australia. Appropriate Independent Reviewers would include former Board members, CEO's or managers of Swimming Australia, current Board members of State Associations excluding the State where the Concerned Party resides and trains, or properly accredited professional accountants, lawyers or sporting consultants, technical officials, FINA officials or representatives.
- (k) In the event the Concerned Party is seeking a review of a sanction imposed during a Team event outside Australia and the sanction includes sending the Concerned Party home, the appeal process will be expedited to include the following specific provisions:
 - (i) the appeal request can be verbal to the Team Leader;
 - (ii) the Independent Reviewer will be a technical official, a FINA delegate or an appropriately qualified team staff member who had no involvement in the investigation process; and
 - (iii) the decision of the Independent Reviewer will be communicated to the Team Leader orally with written reasons to be provided on request by the Concerned Party after the Independent Reviewer returns to Australia.

- (l) Nothing in this Appeal Process denies the Concerned Party the right to appeal the decision of the Independent Reviewer to the Court of Arbitration for Sport.