

WAVESKI SURFING AUSTRALIA INC (WSA)



GOVERNANCE AND BY-LAWS

These By-Laws have been developed using contemporary practices for incorporated organisations. It is a living document and as such will reflect any changes to business management of Waveski Surfing Association. Thank you to everyone who contributed to the development of these Governance and By-Laws.

Contents

1. Introduction	Page 3
2. Overview of the Association’s Committee Role in Waveski Surfing	Page 3
<i>Duties of Committee members</i>	
3. Fiduciary duty	Page 3
4. Care and Diligence	Page 3
5. Conflict of Interest	Page 4
6. Liability for Debts	Page 4
7. Confidentiality	Page 4
8. Code of Conduct	Page 4
9. Rights of Committee Members	Page 4 – 5
10. Ethical Responsibilities	Page 5
11. Money Management for the Association	Page 5
12. Complaints Mechanisms	Page 5 - 6
13. Intellectual Property and Copyright	Page 6
14. Communication	Page 6 - 7
15. Committee Composition and Tenure for the Association	Page 7 - 8
16. Inducting New Members	Page 8
17. Committee Performance	Page 8 – 9
18. Summary	Page 9
Appendices	
Appendix A – Code of Conduct	Pages 13 - 21
Member Protection Polices and Responsibilities	
Privacy Policy and guidelines for Administration	

GOVERNANCE AND BY LAWS OF WAVESKI SURFING AUSTRALIA INC

1. Introduction

The following governance, by-laws including policies and procedures of Waveski Surfing Australia Inc (herein referred to as the Association) are to be read in conjunction with Waveski Surfing Australia Constitution and Waveski Surfing Australia Competition Rule Book and any other documents relevant to the performance of the Association.

The intent of these by laws is to enable appropriate governance of the Association and to ensure that all members of the WWSA Committee and members of the association, cultural diversity and differences are respected.

SECTION 1

2. Overview of the Association's Committee role in Waveski Surfing

The Committee is formally responsible for:

- giving overall direction to the Association;
- overseeing and controlling the executive actions of its management; and
- satisfying legitimate external expectations for accountability and conformance with law and regulation.

Duties of Committee Members

3. Fiduciary Duty

This duty means that committee members should put the interests of the Association they govern first. They must not allow conflicting interests or personal advantage to affect their judgement.

4. Care and Diligence

The common law duty to exercise reasonable skills, care and diligence has attracted increased attention in recent years. The standard is higher than in the past. A committee member is expected to be capable of understanding the Association's affairs and having an informed opinion of its financial capacity.

This does not mean that the committee member must be an accountant or a corporate lawyer rolled into one. However, a committee member should be sufficiently familiar with the Association's business to know when to call for more information or further advice.

5. Conflict of Interest

Committee members must not allow ‘a conflict of interest’ to compromise their position. A perceived conflict of interest may be just as damaging as an actual conflict. This means that committee members must be aware of, and disclose any interest that they have which may influence their judgement or advice. Once the interest has been disclosed, the committee should decide whether it is appropriate for the person to take part in discussion or decision making on that matter.

Conflict of interest does not only arise in relation to financial matters. It may also arise in relation to people management decisions for instance where a committee member has a relationship (positive or negative) with those affected by the decision.

6. Liability for debts

Committee members may be personally liable for the debts of the Association, particularly if the Committee allows it to operate while it is insolvent. Committee members are entitled to be concerned if they become aware of:

- operating losses and weak cash flow
- problems paying trade suppliers and other creditors on time
- problems receiving payment by outstanding debtors

7. Confidentiality

Another important duty is not to disclose or make improper use of information gained as a committee member. Where sensitive matters are being discussed it is usually best if the need for confidentiality is made explicit. As such the Committee will deal with this issue by dividing the agenda into ‘open matters’ and ‘confidential matters’.

If the requirement to maintain confidentiality on a certain matter is likely to lead to a conflict of interest for a committee member then that should be declared and dealt with openly by the Committee. However, fiduciary duty requires Committee members to put the interest of the Association before their own interest or those of any person or other group to which they are attached.

8. Code of Conduct

To preserve the Association as an entity all committee members are asked to sign the Code of Conduct upon appointment to a portfolio – Appendix A. By signing the Code of Conduct, committee members agree to uphold their position on Committee. In the absence of signing the Code of Conduct committee members are still required to adopt all policies and procedures pertaining to their position on the committee and the committee proper.

9. Rights of Committee Members

Consistent with their duty to make sound decisions in the interest of the Association, exercise due care and diligence, avoid conflict of interest and keep sensitive information confidential, Committee members may assert certain rights:

- to receive information about what’s happening in the Association and keep documents containing this information; and
- the right to appoint an auditor to inspect and report on the accounting records of the Association.

If the Committee fails to take advice, heed concerns or provide a minority or dissenting member with information, having concerns and dissents formally recorded in the Committee minutes is prudent. Committee members may seek indemnity from fellow Committee members where there is equal culpability for a breach of duty.

10. Ethical responsibilities and working with children

The Association needs to ensure that all individuals can readily acquaint themselves with the relevant sporting and professional code and that all stakeholders perform in accordance with the expectations described.

The Association embraces and respects cultural diversity, ethnicity, religious affiliations, faith, sexual orientation, gender equity, age, disablement, race, colour and creed.

Where any Committee member, or individual is unable to uphold their ethical responsibilities they will then be referred to the Committee for explanation and resolution.

All children have a right to feel safe in any environment. To this end, any adult responsible for supervising any child in or out of the water at any WSA event must be of suitable character and not have any outstanding, historical or pending charges levied against them. All adults responsible for the supervision of children other than their own must have the relevant ‘working with children certification’.

11. Money Management for the Association

Managing money on behalf of another person(s) or organisation is one of trust. The Association receives money by way of subscription from individuals, advertising via sponsorship, council grants.

The Treasurer has an important role to play both in ensuring that debts are paid when they are due and that creditors are invoiced and moneys receipted and banked in a timely fashion.

The bank account operates on a ‘cash less’ basis; however there needs to be at least 2 members of the executive who have decision making capacity to transfer and receive monies via electronic banking transfer.

When there is failure to receive outstanding moneys, the Committee must be informed in the first instance. An ‘obligation to pay note’ will be forwarded to the outstanding debtor giving 7 (seven) days to pay the account. Failure to receive moneys will result in withdrawal of continued advertising or suspension of subscription benefits until all debts are paid.

12. Complaints Mechanisms

The Association hears and refers complaints to appropriate persons for review and

There will be times when complaints cannot be resolved but need to be managed in such a way as to minimise the impact on the operations and management of the Association.

Complaints from a competition perspective will be handled via the ‘protest mechanism’ as described in the Rule Book. Please refer to the additional information at the end of this manual complaints management

13. Intellectual Property and Copyright

Any work commissioned by the Association for the Association whether paid for or ‘in kind’ shall remain the property of the Association unless otherwise agreed to by the Committee.

Permission to use other publications will be sought when required and authors will be acknowledged with the appropriate referencing.

14. Communication

Given the geographical location of Committee members communication will for the most part be via the internet and teams meetings. Email etiquette is a skill and if not respected much damage can occur with the written word.

Committee members are to ensure that when they are sending messages in an official capacity (i.e. as a Committee member) that they respect the position they hold. All official correspondence both within the Association and external to the Association is to be placed on Official Association Letter Head and co-signed by two committee members one of whom must be the President. At times there will be exceptions to this where an immediate response is required and in this case, shall another committee member substitute for the President.

The following is a sample style format for communication.

- Message commences with either Dear or Good morning or Good afternoon
- Message is in light type face with consistent font. Bold lettering is for highlighting.
- Capital letters for proper nouns only as whole words with capitals infers that you are shouting at the person.
- Complete your message with yours sincerelyor kind regards.....

Consider your thoughts and feelings when you are about to send an email; sometimes writing a letter in draft to begin with and then revisiting later can cast a different perspective on the content.

Give people sufficient time to acknowledge your message – a reasonable turn around for two-way communication is between 5-8 days. A calendar showing close off dates for responses is a good idea and lets people know in advance when they should reply.

Face to face communication is the optimum forum however this will generally only occur at the Annual General Meeting (meeting). It is important to acknowledge that other committee members and members will have important issues to raise.

The timing of the meeting is critical; too late in the day following competition events is not wise as competitors and delegates will be much more interested focusing their energies on the competition. Given this, it is wise to review what you will be saying at the meeting. It is a well known fact that the concentration span for most people on one particular issue is no longer than five minutes.

Naturally there will be times when issues will take considerably longer, if this is the case then perhaps consider using a sub-committee to take the issue further. Not all issues will be graciously received and it is natural for the presenter to feel disenchanted and want to ‘throw in the towel’. Moments like these require the help of a master of ceremonies or time keeper, a person who does not get caught up in the moment and one who can placate the audience.

Newsletters are another forum for communicating to the waveski community. Stakeholders view the Association in high esteem and one of authority. Consistent with this it is important to present information which is factual and will in no way exploit or harm The Association, and/or individuals. To this end all newsletters require authorisation by the President and/or the Secretary before they are released.

SECTION 2

15. Committee Composition and Tenure for Waveski Surfing Australia

Effective Committees need to be small enough to discuss matters efficiently and provide consistent direction. Committees with five to nine members operate most effectively.

Individuals should serve on Committee long enough to master their roles and contribute fully, but not so long that the Committee becomes insular. Conversely if there is a rapid turnover of Committee members there will be less likelihood of achieving outcomes and a very real issue of instability.

Ideally the Committee will contain members who bring a blend of expertise, experience, external contacts and personal characteristics that, assembled as a team, can build the future of WSA.

Expertise in the sport of waveski surfing, business management, quality and strategic management, the law, human resource management, marketing and public relations are all desirable on a committee. Good contacts with the waveski community and generic surf/canoe/kayak disciplines and the ability to operate as part of team are useful personal attributes.

At present the committee is made up of the following positions who are elected by financial members nations at the Meeting of the Association

President,
Vice President x2
Secretary,
Treasurer,
Contest Director
Media/communication
Development and training
Website administration

No person can occupy more than one role save for the President/Vice President who may occupy the position of Secretary or Treasurer or International Contest Director or other.

Neutral gender is referred to as 'he' for ease of documentation however the reference to 'she' will be used where it is specifically required to do so eg. Reference to the women's waveski division in the WSA competition events and any other championship where the WSA has an influence or vested interest.

16. Inducting New Members

When a new member is appointed to the Committee some induction processes are useful. New members should:

- Receive and review papers that set out the history (in this case 1999 a reasonable time frame), Constitution, Competition Rule Book and By-laws.
- Be briefed on the way the committee works with the President and on the proper channels for exchanging information.
- Meet and/or correspond with the Chair of the Committee (President) to establish a relationship that enables informal discussion of issues and exchanges of information.
- Be engaged in activities that enable learning about the operations and the financial affairs of the Association. The role of the Association and any sub-committees.

17. Committee Performance

The Committee of waveski surfing is responsible for the administration of the Association and the use of members funds : entry fees

A Committee that takes these responsibilities seriously will want to evaluate its own performance. There are two main approaches:

- Assessing performance of individual members; and
- Evaluating the performance of the Committee as a whole.

Evaluation of the performance of individual members may need to be tailored to the expectations the Committee had in terms of the expertise or networks it hoped to gain in recruiting new members.

As in any team, the performance of individual members of the Committee also reflects its group dynamics. While the contribution of an individual to those dynamics can be assessed, it may be useful to use an external person with special expertise in this area to work through the issues.

Five useful measures for an evaluation of whole-of-Committee processes are:

- The Committee understands its role and responsibilities
- The Committee is well organised and properly constituted
- The Committee is well informed
- Information for the Committee is tailored to enable it to meet its responsibilities; and
- The Committee uses this information appropriately.

18. SUMMARY

In conclusion the above information is to be used as a guide in anticipation that it will provide the necessary framework for Waveski Surfing Australia to conduct its affairs. It is a living document and as such it is anticipated that this document will be reviewed and revised accordingly.

Signed

Graham Lancaster President
Waveski Surfing Australia
25 January 2024

References

:-

Business Strategies in the 21st Century – Bovis Lend Lease 2019,
Australian Institute Company Directors – Good Governance 2020
Australian Securities and Investment Commission – Handling Money
2021
Australian Small Business and Voluntary Organisations – Accountability
2021 Western Australian Waveski Association – Code of Conduct, Duty of
Care 2016 Australian Human Rights Commission – Equal Opportunity 2023
Appendix A.

Code of Conduct for Committee Members

Committee members elected to serve on Waveski Surfing Australia (hereinafter referred to as the Association) must accept the obligation to uphold the standing of the Association by observing this Code of Conduct.

The management, powers and responsibility of the Association place high ethical demands on Committee members. Compliance with this code is one of the conditions for continuing committee membership. Breach of the Code may lead to dismissal or removal from the Association Committee.

Requirements of the Code are:-

- To act professionally, accurately and to report findings in a consistent and unbiased manner, and in accordance with the Association's requirements.
- Not to misrepresent my own or any other individual's qualifications, competence, or experience.
- Not to enter into any activity which may be in conflict with the best interests of the Association or would prevent the discharge of duties in an objective manner.
- Not to communicate false, erroneous or misleading information that may compromise the integrity of the Association and individual office bearers.
- Not to act in any way that would prejudice the reputation of the Association.
- To co-operate fully with any enquiry in the event of any complaint about my performance as a Committee member or any alleged breach of this Code.
- Not to discuss or disclose any information relating to the Association which would in any way expose or exploit the Association as a whole or individual office bearers.

I confirm that I have complied and will continue to comply with this Code of Conduct.

.....
(Name)

.....
(Signature)

Member Protection Policies, Member Protection Responsibilities and Code of Conduct

1. Introduction

- Waveski Surfing Australia (WSA) seeks to prevent all forms of harassment, discrimination and abuse and to promote positive behaviour and values
- that inappropriate or unlawful behaviour will not be tolerated by the Association
- that the policy sets out codes of behaviour with which everyone associated with the Association is expected to abide
- that disciplinary action will be taken against individuals if there is a breach of the policy
- members conduct themselves in a sportsperson manner and respect each individual.
- Wherein mention is made of WSA, We, Association and or Club/s Affiliated the meaning shall pertain to all and include each one as appropriate.

2. Purpose of Our Policy

The main objective of our Member Protection Policy (policy) is to maintain responsible behaviour and the making of informed decisions by participants in the Association. It outlines our commitment to a person's right to be treated with respect and dignity, and to be safe and protected from abuse. Our policy informs everyone involved in our Association or related entities of his or her legal and ethical rights and responsibilities and the standards of behaviour that are required. It also covers the care and protection of children participating in our Association's activities.

3. Who Our Policy Applies To

Our policy applies to everyone involved in the Association in any capacity including committee members, administrators, coaches, club officials (umpires/referees/judges), competitors, parents and spectators.

4. Extent of Our Policy

Our policy covers unfair decisions and actions, breaches of our code of behaviour and behaviour that occurs at events, practice, at social events organised or sanctioned by the Association (or our sport). It also covers private behaviour where that behaviour brings our Association or sport into disrepute or there is suspicion of harm towards a child or young person or any other person who may be vulnerable such as adaptive waveski surfer.

5. Association Responsibilities

We will:

- adopt, implement and comply with this policy;
- ensure that this policy is enforceable;
- publish, distribute and promote this policy and the consequences of any breaches of this policy;
- promote and model appropriate standards of behaviour at all times;
- deal with any complaints made under this policy in an appropriate manner;
- deal with any breaches of this policy in an appropriate manner;

- recognise and enforce any penalty imposed under this policy;
- ensure that a copy of this policy is available or accessible to all people and organisations to whom this policy applies;
- review this policy every 12-18 months; and
- seek advice from and refer serious issues to the appropriate authority.
- Recommend that the following policies be applied to all sporting and social events that we hold or endorse.
- It is recommended that no smoking shall occur at or near sporting events involving children and young people under the age of 18. This policy shall apply to coaches, players, trainers, officials and volunteers
- It is recommended that Coaches, officials, trainers, volunteers and players will refrain from smoking and remain smoke-free while they are involved in an official capacity in our sport, both on and off the field.
- Social events shall be smoke-free, with smoking permitted at designated outdoor smoking areas
- Committed to conducting social events in a manner that promotes the responsible service and consumption of alcohol, in general, our policy is that:
 - alcohol should not be available or consumed at sporting events involving children and young people under the age of 18
 - food, low-alcohol and non-alcoholic drinks will be available at necessary events we hold or endorse where alcohol is served. Alcohol is still permitted providing responsible consumption and behaviour is to an acceptable standard
 - a committee member will be present at events we hold or endorse where alcohol is served to ensure appropriate practices are followed
 - safe transport options will be promoted as part of any event we hold or endorse where alcohol is served.
 - Actively seek to promote, encourage and support strategies to minimize harm from drug use and therefore does not condone the use of banned drugs or substances.
 - The use of illicit and performance enhancing drugs will not be allowed at any activities or events, as per the World Sport and Drug Agency current policies and rules. Participants/performers/competitors known to have consumed illicit drugs will not be permitted to participate or perform or compete.
 - We aim to support sun safe practices all year round to minimise exposure to ultraviolet (UV) radiation any time of year as this has potential negative health effects.

Serious issues include unlawful behaviour that involves or could lead to significant harm and includes criminal behaviour (e.g. physical assault, sexual assault, child abuse) and any other issues we believe warranted are to be referred to the appropriate authority.

6. Individual Responsibilities

Everyone associated with our Association and related entities must:

- make themselves aware and comply with the standards of behaviour outlined in our policy;
- treat others with respect;
- always place the safety and welfare of children above other considerations;
- be responsible and accountable for their behaviour;
- follow the guidelines outlined in this policy if they wish to make a complaint or report a concern about possible child abuse, discrimination, harassment or other inappropriate behaviour.
- Social events in a manner that promotes the responsible service and consumption of alcohol. In general, alcohol is still permitted providing responsible consumption and behaviour is to an acceptable standard. Normally a no alcohol policy applies to competition events, also
- Alcohol should not be available or consumed at sporting events involving children and young people under the age of the governing local authority e.g Aus – 18, USA – 21 years.

- food, low-alcohol and non-alcoholic drinks will be available at necessary events we hold or endorse where alcohol is served. Alcohol is still permitted providing responsible consumption and behaviour is to an acceptable standard
- It is recommended that no smoking shall occur at or near sporting events involving children and young people under the age of 18. This policy shall apply to coaches, players, trainers, officials and volunteers
- Recommend that the following policies be applied to all waveski and social events that we hold or endorse
- It is recommended Coaches, officials, trainers, volunteers and players will refrain from smoking and remain smoke-free while they are involved in an official capacity in our sport, both on and off the field.
- Social events shall be smoke-free, with smoking permitted at designated outdoor smoking areas
- Social networking sites: The Association acknowledges the enormous value of social networking websites, such as Facebook, Twitter, Instagram etc to promote our sport and celebrate the achievements and success of the people involved in our sport
- We expect all people bound by this policy to conduct themselves appropriately when using social networking sites to share information related to our sport.
- Social media postings, blogs, status updates and tweets:
 - must not use offensive, provocative or hateful language
 - must not be misleading, false or injure the reputation of another person
 - should respect and maintain the privacy of others
 - should promote the sport in a positive way
- The use of illicit and performance enhancing drugs will not be allowed at any activities or events under the control of the Association, as per the World Anti-Doping and Drug Guidelines.
- Participants/performers/competitors known to have consumed illicit drugs will not be permitted to participate or perform, enter or continue in an event.
- Aim to support sun safe practices all year round to minimise exposure. Exposure to ultraviolet (UV) radiation any time of year has potential negative health effects.
- Consider Sunscreen (SPF 30+, broad spectrum water resistant) and sun protection behaviours such as wearing hats, long sleeved shirts, extra length shorts, sunglasses.

7. Protection of Children

7.1 Child Protection

The Association is committed to the safety and wellbeing of children and young people who participate in our clubs activities or use our services. We support the rights of the child and will act at all times to ensure that a child safe environment is maintained. We also support the rights and wellbeing of our staff and volunteers and encourage their active participation in building and maintaining a secure and safe environment for all participants.

The Association acknowledges the valuable contribution made by our Committee, staff, members and volunteers and we encourage their active participating in providing a safe, fair and inclusive environment for all participants.

7.1.1: Identifying and Analysing Risks of Harm

We will develop and implement a risk management strategy, which includes a review of our existing child protection practices, to determine how child-safe our organisation is and to identify any additional steps we can take to minimise and prevent the risk of harm to children because of the action of an employee, volunteer or another person.

7.1.2: Developing Codes of Conduct for Adults and Children

We will develop and promote a code of conduct that specifies standards of conduct and care we expect of adults when they deal and interact with children, particularly those in our care. We will also implement a code of conduct to promote appropriate behaviour between children.

The codes will clearly describe professional boundaries, ethical behaviour and unacceptable behaviour.

See **Attachment 2**.

7.1.3: Choosing Suitable Employees and Volunteers

We will ensure that the Association takes all reasonable steps to ensure that it engages the most suitable and appropriate people to work with children, especially those in positions that involve regular unsupervised contact with children. This may be achieved using a range of screening measures. Such measures will aim to minimise the likelihood of engaging (or retaining) people who are unsuitable to work with children.

We will ensure that Working with Children Checks and criminal history assessments are conducted for employees and volunteers working with children, where an assessment is required by law. If a criminal history report is obtained as part of the screening process, we will ensure that the criminal history information is dealt with confidentially and in accordance with relevant legal requirements.

7.1.4: Support, Train, Supervise and Enhance Performance

We will ensure that all our volunteers who work with children have ongoing supervision; support and training. Our goal is to develop their skills and capacity and to enhance their performance so we can maintain a child-safe environment in our club.

7.1.5: Empower and Promote the Participation of Children In Decision-Making And Service Development

We will promote the involvement and participation of children and young people in developing and maintaining a child-safe environment in our club.

7.1.6: Report and Respond Appropriately to Suspected Abuse and Neglect

We will ensure that volunteers are able to identify and respond appropriately to children at risk of harm and that they are aware of their responsibilities under state laws to make a report if they suspect on reasonable ground that a child has been, or is being, abused or neglected. (See Attachment 4).

In addition to any legal obligations, if any person believes that another person or organisation bound by this policy is acting inappropriately towards a child or is in breach of this policy they may make an internal complaint.

Please refer to our complaints procedure in section 10 of this policy.

Any person who believes a child is in immediate danger or in a life threatening situation, should contact the police immediately.

8. Discrimination, Harassment and Bullying

Our Association is committed to providing an environment in which people are treated fairly and equitably and that is, as far as practicable, free from all forms of discrimination, harassment and bullying.

We recognise that people may not be able to enjoy themselves or perform at their best if they are treated unfairly, discriminated against, harassed or bullied.

8.1 Discrimination

Unlawful discrimination involves the less favourable treatment of a person on the basis of one or more of the personal characteristics protected by International, State or Federal anti-discrimination laws.

Discrimination includes both direct and indirect discrimination:

- **Direct discrimination** occurs if a person treats, or proposes to treat, a person with a protected personal characteristic unfavourably because of that personal characteristic.
- **Indirect discrimination** occurs if a person imposes, or proposes to impose, a requirement, condition or practice that will disadvantage a person with a protected personal characteristic and that requirement, condition or practice is not reasonable.

For the purpose of determining discrimination, the offender's awareness and motive are irrelevant.

8.2 Harassment

Harassment is any unwelcome conduct, verbal or physical, that intimidates, offends or humiliates another person and which happens because a person has a certain personal characteristic protected by State or Federal anti-discrimination legislation.

The offensive behaviour does not have to take place a number of times, a single incident can constitute harassment.

Sexual harassment is one type of harassment. Sexual harassment involves unwelcome conduct, remarks or innuendo of a sexual nature. It covers a wide range of behaviours and can be verbal, written, visual or physical. Sexual harassment is not limited to members of the opposite sex.

Every person is covered by the anti-discrimination laws that apply in their country as well as the international anti-discrimination laws.

The following is a list of all the personal characteristics that may apply throughout the World:

- gender;
- race, colour, descent, national or ethnic origin, nationality, ethno-religious origin, immigration;
- national extraction or social origin;
- marital status, relationship status, identity of spouse or domestic partner;
- pregnancy, potential pregnancy, breastfeeding;
- family or carer responsibilities, status as a parent or carer;
- age;
- religion, religious beliefs or activities;
- political beliefs or activities;
- lawful sexual activity;
- sexual orientation and gender identity;

- profession, trade, occupation or calling;
- irrelevant criminal record, spent convictions;
- irrelevant medical record;
- member of association or organisation of employees or employers, industrial activity, trade union activity;
- physical features;
- disability, mental or physical impairment;
- defence service; and
- personal association with someone who has, or is assumed to have, any of these personal characteristics.

Legislation also prohibits:

- racial, religious, homosexual, transgender and HIV/AIDS vilification; and
- victimisation resulting from a complaint.

8.3 Bullying

The Association is committed to providing an environment that is free from bullying. We understand that bullying has the potential to result in significant negative consequences for an individual's health and wellbeing, and we regard bullying in all forms as unacceptable at our club.

Bullying is characterised by repeated, unreasonable behaviour directed at a person, or group of persons, that creates a risk to health and safety. Bullying behaviour is that which a reasonable person in the circumstances would expect to victimise, humiliate, undermine, threaten, degrade, offend or intimidate a person. Bullying behaviour can include actions of an individual or group.

Whilst generally characterised by repeated behaviours, one off instances can amount to bullying.

The following types of behaviour, where repeated or occurring as part of a pattern of behaviour, would be considered bullying:

- verbal abuse including shouting, swearing, teasing, making belittling remarks or persistent unjustified criticism;
- excluding or isolating a group or person;
- spreading malicious rumours; or
- psychological harassment such as intimidation.

Bullying includes cyber-bullying which occurs through the use of technology. New technologies and communication tools, such as smart phones and social networking websites, have greatly increased the potential for people to be bullied through unwanted and inappropriate comments. We will not tolerate abusive, discriminatory, intimidating or offensive statements being made online.

If any person believes they are being, or have been, bullied by another person or organisation bound by this policy, he or she may make a complaint. (Refer to Item 10 of this policy.)

9. People

Our Association is welcoming and we will seek to include members from all areas of our community.

The following are examples of some of our inclusive practices.

9.1 People with a disability

We will not discriminate against any person because they have a disability. Where it is necessary and practical we will make reasonable adjustments (e.g. modifications to equipment and rules) to enable participation.

9.2 People from diverse cultures

We will support, respect and encourage people from diverse cultures and religions to participate in our club and where possible we will accommodate requests for flexibility (e.g. modifications to outfits/competition singlets to be worn).

9.3 Sexual & Gender Identity

All people, regardless of their sexuality or gender identity, are welcome to be a part of our Association. We strive to provide a safe environment for participation and will not tolerate any form of discrimination or harassment because of a person's sexuality or gender identity.

10. Responding to Complaints

10.1 Complaints

Our Association takes all complaints about on and off-field behaviour seriously. Our Association will handle complaints based on the principles of procedural fairness, and ensure:

- all complaints will be taken seriously;
- the defendant will be given full details of what is being alleged against them and have the opportunity to respond to those allegations;
- irrelevant matters will not be taken into account;
- decisions will be unbiased; and
- any penalties imposed will be reasonable.

More serious complaints may be escalated to the relevant body such as the local authorities.

If the complaint relates to suspected child abuse, sexual assault or other criminal activity, then our Association may need to report the behaviour to the police and/or relevant government authority.

10.2 Complaint Handling Process

When a complaint is received by our Association, the person receiving the complaint (e.g. President, Secretary) will:

- listen carefully and ask questions to understand the nature and extent of the concern;
- ask what the complainant how they would like their concern to be resolved and if they need any support;
- explain the different options available to help resolve the complainant's concern;
- inform the relevant government authorities and/or police, if required by law to do so; and
- where possible and appropriate, maintain confidentiality but not necessarily anonymity.

Once the complainant decides on their preferred option for resolution, the Association will assist, where appropriate and necessary, with the resolution process. This may involve:

- supporting the person complaining to talk to the person being complained about;
- bringing all the people involved in the complaint together to talk objectively through the problem (this could include external mediation);
- gathering more information (e.g. from other people that may have seen the behaviour);

- seeking advice from our district, regional, state and/or national body or from an external agency (e.g. anti-discrimination agency);
- referring the complainant to an external agency such as a community mediation centre, police or anti-discrimination agency.

In situations where a complaint is referred to an external agency or authority and an investigation is conducted, the Association will:

- co-operate fully with the investigation;
- where applicable, ensure the complainant is not placed in an unsupervised situation with the respondent(s); and
- act on recommendations as appropriate.

At any stage of the process, a person can seek advice from an anti-discrimination commission or other external agency and, if the matter is within their jurisdiction, may lodge a complaint with the anti-discrimination commission or other external agency.

10.3 Disciplinary Sanctions

Our Association may take disciplinary action against anyone found to have breached our policy or made false and malicious allegations. Any disciplinary measure imposed under our policy must:

- be applied consistent with any contractual and employment rules and requirements;
- be fair and reasonable;
- be based on the evidence and information presented and the seriousness of the breach; and
- be determined by our constituent documents, by Laws and the rules of the game.

Possible sanctions that may be taken include:

- a direction that the individual make verbal and/or written apology;
- counselling of the individual to address behaviour;
- withdrawal of any awards, placings, records, achievements bestowed in any tournaments, activities or events held or sanctioned by our Association;
- suspension or termination of membership, participation or engagement in a role or activity;
- de-registration of accreditation for a period of time or permanently;
- a fine; or
- any other form of discipline that our Association considers reasonable and appropriate.

10.4 Appeals

The complainant or respondent may be entitled to lodge an appeal against a decision made in relation to a complaint (including a decision where disciplinary sanctions are imposed by our club). Appeals must be based on any right of appeal provided for in the relevant constituent documents, rules, regulations or by laws.

Note: However, the grounds of an appeal should be specific, for example they may be limited to a denial of procedural fairness, on grounds of unjust or unreasonable disciplinary measure(s) being imposed, or on the grounds that the decision was not supported by the information/evidence presented and available to the decision maker/club. The jurisdiction of the appeal body are binding on the complainant and respondent.

Attachment 1.1: MEMBER PROTECTION DECLARATION

Waveski Surfing Australia (herein referred to as the Association) has a duty of care to all those associated with our Association and to the individuals and organisations to whom this policy applies. As a requirement of our Member Protection Policy, we must enquire into the background of those who undertake any work, coaching or regular unsupervised contact with people under the age of 18 years.

I (name) of

.....

..... (address) born/...../.....

sincerely declare:

- 1. I do not have any criminal charge pending before the courts.
- 2. I do not have any criminal convictions or findings of guilt for sexual offences, offences related to children or acts of violence, narcotics or similar offences..
- 3. I have not had any disciplinary proceedings brought against me by an employer, sporting organisation or similar body involving child abuse, sexual misconduct or harassment, other forms of harassment or acts of violence or narcotics, drug or similar convictions.
- 4. To my knowledge there is no other matter that the club may consider to constitute a risk to its members, employees, volunteers, athletes or reputation by engaging me.
- 5. I will notify the President and Secretary of the club immediately upon becoming aware that any of the matters set out in clauses 1 to 4 above has changed.

Declared in the *State/Territory*

.....

on/...../.....(date) Signature

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

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

Name:.....

Signature:.....

Date:

Attachment 2: CODES OF BEHAVIOUR

We seek to provide a safe, fair and inclusive environment for everyone involved in our Association and in our sport

To achieve this, we require certain standards of behavior by members, competitors, players/athletes, coaches, officials, administrators, parents/guardians (of child participants) and spectators.

Our codes of behaviour are underpinned by the following core values.

- To act within the rules and spirit of our sport.
- To display respect and courtesy towards everyone involved in our sport and prevent discrimination and harassment.
- To prioritise the safety and well-being of children and young people involved in our sport.
- To encourage and support opportunities for participation in all aspects of our sport.
- Also refer to Policy Nos. 6, 8 and 10.3.

RECORD OF COMPLAINT

Name of person receiving complaint		Date: / /
Complainant's Name	<input type="checkbox"/> Over 18	<input type="checkbox"/> Under 18
Complainant's contact details	Phone: Email:	
Complainant's role/status in Association	<input type="checkbox"/> Administrator (volunteer) <input type="checkbox"/> Athlete/player <input type="checkbox"/> Coach/Assistant Coach <input type="checkbox"/> Employee (paid) <input type="checkbox"/> Official.....	<input type="checkbox"/> Parent <input type="checkbox"/> Spectator <input type="checkbox"/> Support Personnel <input type="checkbox"/> Other
Name of person complained about	<input type="checkbox"/> Over 18	<input type="checkbox"/> Under 18
Person complained about role/status in Association	<input type="checkbox"/> Administrator (volunteer) <input type="checkbox"/> Athlete/player <input type="checkbox"/> Coach/Assistant Coach <input type="checkbox"/> Other	<input type="checkbox"/> Parent <input type="checkbox"/> Spectator <input type="checkbox"/> Support Personnel
Location/event of alleged issue		
Description of alleged issue		
Nature of complaint ie category/basis/grounds Can tick more than one box	<input type="checkbox"/> Harassment <input type="checkbox"/> Discrimination <input type="checkbox"/> Sexual/sexist <input type="checkbox"/> Selection dispute <input type="checkbox"/> Coaching methods <input type="checkbox"/> Sexuality <input type="checkbox"/> Personality clash <input type="checkbox"/> Verbal abuse <input type="checkbox"/> Race <input type="checkbox"/> Bullying <input type="checkbox"/> Physical abuse <input type="checkbox"/> Religion <input type="checkbox"/> Disability <input type="checkbox"/> Victimisation <input type="checkbox"/> Pregnancy <input type="checkbox"/> Child Abuse <input type="checkbox"/> Unfair decision <input type="checkbox"/> Other	
What they want to happen to fix issue	<input type="checkbox"/>	
Information provided to them	<input type="checkbox"/>	
Resolution and/or action taken		

Follow up action	
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WAVESKI SURFING AUSTRALIA INC PRIVACY POLICY

INTRODUCTION

On 21 December 2001, the Amendments made by the Privacy Amendment (Private Sector) Act 2000 to the Privacy Act 1988 became law. The Privacy Act 1988 (“the Act”) now applies to private sector organisations, the definitions of which includes incorporated associations, and so includes Waveski Surfing Australia. The Act provides protection for “personal information”, which is understood as information or an opinion which can identify a person. It applies to recorded information, including information recorded electronically. Special rules apply to “sensitive information”, and refer to types of information or opinions about a person considered sensitive, eg. race, beliefs, memberships, sexual behaviour and criminal records.

MINIMUM STANDARDS

The Act requires organisations to comply with “national privacy principles” or an approved privacy code (an organisation can apply to the Privacy Commissioner for approval of its own code). The national privacy principles provide minimum standards for the collection, use, disclosure and storage of personal information, and the rights of individuals to access and correct that information.

The national privacy principles provide guidance in dealing with personal information:

1. Collection;
2. Use and disclosure;
3. Data quality;
4. Data security;
5. Openness;
6. Access and correction;
7. Identifiers;
8. Anonymity;
9. Transborder data flows;
10. Sensitive information.

See Annexure “A” attached, “Privacy Principles” (Schedule 3 of the Privacy Act 1988).

PRIVACY POLICY

Waveski Surfing Australia is committed to the protection of personal information. A commitment is based on an adherence to the national privacy principles.

1. Collection

Waveski Surfing Australia collects a minimum of personal information from a prospective member, such as their name, contact details and date of birth. Waveski Surfing Australia collects medical information from individuals seeking selection as a representative individual of the State Association. This information usually concerns emergency contacts and health care details. Waveski Surfing Australia may request from members of ASP Australasia that they supply private banking details to facilitate the transfer of prizemoney from events they have participated in.

2. Use and Disclosure of Your Information

The primary purpose for the collection of personal information is to enable Waveski Surfing Australia to perform its functions and activities. An accurate record of its members is essential for this purpose. Medical information obtained by Waveski Surfing Australia is maintained solely by the Association's for the purpose of ensuring an individuals safety if injured in competition while representing the Association. Individuals' medical information will at all times remain protected and will be released only to designated medical practitioners if the individual is injured in competition while representing the Association. An individual has the right to refuse consent for the use of the collected medical information. An individual also has the right to refuse to supply the information. If an individual refuses to provide the requested medical information or not consent to the use of that information in the case of injury or other medical emergency, then Waveski Surfing Australia will not assume any liability for any resulting action or disability that the individual may suffer as a result of his or her refusal.

3. Access to Personal Information

Waveski Surfing Australia will use its best endeavours to ensure that the information it obtains is accurate, complete and current. An individual may access or change information that the Association has collected by placing a request in writing and sending the request to the:

Members Protection Officer

Graham Lancaster (President)
Waveski Surfing Australia Inc
27 Larentia Street
CURRUMBIN WATERS QLD 4223

Please allow 14 days for your request to be processed.

4. Data Security

Waveski Surfing Australia will endeavour to take all reasonable steps to keep secure any information held about an individual. Waveski Surfing Australia has security measures in place to protect the loss, misuse and alteration of the information under its control.

5. Complaint

If an individual considers that his or her privacy has been breached, a complaint may be made to our Member Protection Officer at the above address. If the aggrieved person considers that the issue has not be resolved within an appropriate time frame, recourse may be made to the Federal Privacy Commissioner.

Further information on your rights can be found at www.privacy.gov.au

Annexure “A”

National Privacy Principles (Extracted from the Privacy Amendment (Private Sector) Act 2000)

1. Collection

1.1 An organisation must not collect personal information unless the information is necessary for one or more of its functions or activities.

1.2 An organisation must collect personal information only by lawful and fair means and not in an unreasonably intrusive way.

1.3 At or before the time (or, if that is not practicable, as soon as practicable after) an organisation collects personal information about an individual from the individual, the organisation must take reasonable steps to ensure that the individual is aware of:

(a) the identity of the organisation and how to contact it; and

(b) the fact that he or she is able to gain access to the information; and

(c) the purposes for which the information is collected; and

(d) the organisations (or the types of organisations) to which the organisation usually discloses information of that kind; and

(e) any law that requires the particular information to be collected; and

(f) the main consequences (if any) for the individual if all or part of the information is not provided.

1.4 If it is reasonable and practicable to do so, an organisation must collect personal information about an individual only from that individual.

1.5 If an organisation collects personal information about an individual from someone else, it must take reasonable steps to ensure that the individual is or has been made aware of the matters listed in subclause 1.3 except to the extent that making the individual aware of the matters would pose a serious threat to the life or health of any individual.

2. Use and disclosure

2.1 An organisation must not use or disclose personal information about an individual for a purpose (the secondary purpose) other than the primary purpose of collection unless:

(a) both of the following apply:

(i) the secondary purpose is related to the primary purpose of collection and, if the personal information is sensitive information, directly related to the primary purpose of collection;

(ii) the individual would reasonably expect the organisation to use or disclose the information for the secondary purpose; or

(b) the individual has consented to the use or disclosure; or

(c) if the information is not sensitive information and the use of the information is for the secondary purpose of direct marketing:

(i) it is impracticable for the organisation to seek the individual's consent before that particular use; and

(ii) the organisation will not charge the individual for giving effect to a request by the individual to the organisation not to receive direct marketing communications; and

(iii) the individual has not made a request to the organisation not to receive direct marketing communications; and

(iv) in each direct marketing communication with the individual, the organisation draws to the individual's attention, or prominently displays a notice, that he or she may express a wish not to receive any further direct marketing communications; and

(v) each written direct marketing communication by the organisation with the individual (up to and including the communication that involves the use) sets out the organisation's business address and telephone number and, if the communication with the individual is made by fax, telex or other electronic means, a number or address at which the organisation can be directly contacted electronically; or

(d) if the information is health information and the use or disclosure is necessary for research, or the compilation or analysis of statistics, relevant to public health or public safety:

(i) it is impracticable for the organisation to seek the individual's consent before the use or disclosure; and

(ii) the use or disclosure is conducted in accordance with guidelines approved by the Commissioner under section 95A for the purposes of this subparagraph; and

(iii) in the case of disclosure—the organisation reasonably believes that the recipient of the health information will not disclose the health information, or personal information derived from the health information; or

(e) the organisation reasonably believes that the use or disclosure is necessary to lessen or prevent:

(i) a serious and imminent threat to an individual's life, health or safety; or

(ii) a serious threat to public health or public safety; or

(f) the organisation has reason to suspect that unlawful activity has been, is being or may be engaged in, and uses or discloses the personal information as a necessary part of its investigation of the matter or in reporting its concerns to relevant persons or authorities; or

(g) the use or disclosure is required or authorised by or under law; or

(h) the organisation reasonably believes that the use or disclosure is reasonably necessary for one or more of the following by or on behalf of an enforcement body:

- (i) the prevention, detection, investigation, prosecution or punishment of criminal offences, breaches of a law imposing a penalty or sanction or breaches of a prescribed law;
- (ii) the enforcement of laws relating to the confiscation of the proceeds of crime;
- (iii) the protection of the public revenue;
- (iv) the prevention, detection, investigation or remedying of seriously improper conduct or prescribed conduct;
- (v) the preparation for, or conduct of, proceedings before any court or tribunal, or implementation of the orders of a court or tribunal.

Note 1: It is not intended to deter organisations from lawfully co-operating with agencies performing law enforcement functions in the performance of their functions.

Note 2: Subclause 2.1 does not override any existing legal obligations not to disclose personal information. Nothing in subclause 2.1 requires an organisation to disclose personal information; an organisation is always entitled not to disclose personal information in the absence of a legal obligation to disclose it.

Note 3: An organisation is also subject to the requirements of National Privacy

Principle 9 if it transfers personal information to a person in a foreign country.

2.2 If an organisation uses or discloses personal information under paragraph 2.1(h), it must make a written note of the use or disclosure.

2.3 Subclause 2.1 operates in relation to personal information that an organisation that is a body corporate has collected from a related body corporate as if the organisation's primary purpose of collection of the information were the primary purpose for which the related body corporate collected the information.

2.4 Despite subclause 2.1, an organisation that provides a health service to an individual may disclose health information about the individual to a person who is responsible for the individual if:

(a) the individual:

(i) is physically or legally incapable of giving consent to the disclosure; or

(ii) physically cannot communicate consent to the disclosure; and

(b) a natural person (the carer) providing the health service for the organisation is satisfied that either:

(i) the disclosure is necessary to provide appropriate care or treatment of the individual; or

(ii) the disclosure is made for compassionate reasons; and

(c) the disclosure is not contrary to any wish:

(i) expressed by the individual before the individual became unable to give or communicate consent; and

- (ii) of which the carer is aware, or of which the carer could reasonably be expected to be aware; and
 - (d) the disclosure is limited to the extent reasonable and necessary for a purpose mentioned in paragraph (b).

2.5 For the purposes of subclause 2.4, a person is responsible for an individual if the person is:

- (a) a parent of the individual; or
- (b) a child or sibling of the individual and at least 18 years old; or
- (c) a spouse or de facto spouse of the individual; or
- (d) a relative of the individual, at least 18 years old and a member of the individual's household; or
- (e) a guardian of the individual; or
- (f) exercising an enduring power of attorney granted by the individual that is exercisable in relation to decisions about the individual's health; or
- (g) a person who has an intimate personal relationship with the individual; or
- (h) a person nominated by the individual to be contacted in case of emergency.

2.6 In subclause

2.5: child of an individual includes an adopted child, a step-child and a foster-child, of the individual. parent of an individual includes a step-parent, adoptive parent and a foster-parent, of the individual. relative of an individual means a grandparent, grandchild, uncle, aunt, nephew or niece, of the individual. sibling of an individual includes a half-brother, half-sister, adoptive brother, adoptive sister, stepbrother, step-sister, foster-brother and foster-sister, of the individual.

3. Data quality

An organisation must take reasonable steps to make sure that the personal information it collects, uses or discloses is accurate, complete and up-to-date.

4. Data security

4.1 An organisation must take reasonable steps to protect the personal information it holds from misuse and loss and from unauthorised access, modification or disclosure.

4.2 An organisation must take reasonable steps to destroy or permanently de-identify personal information if it is no longer needed for any purpose for which the information may be used or disclosed under National Privacy Principle 2.

5. Openness

5.1 An organisation must set out in a document clearly expressed policies on its management of personal information. The organisation must make the document available to anyone who asks for it.

5.2 On request by a person, an organisation must take reasonable steps to let the person know, generally, what sort of personal information it holds, for what purposes, and how it collects, holds, uses and discloses that information.

6. Access and correction

6.1 If an organisation holds personal information about an individual, it must provide the individual with access to the information on request by the individual, except to the extent that:

- (a) in the case of personal information other than health information—providing access would pose a serious and imminent threat to the life or health of any individual; or
- (b) in the case of health information—providing access would pose a serious threat to the life or health of any individual; or
- (c) providing access would have an unreasonable impact upon the privacy of other individuals; or
- (d) the request for access is frivolous or vexatious; or
- (e) the information relates to existing or anticipated legal proceedings between the organisation and the individual, and the information would not be accessible by the process of discovery in those proceedings; or
- (f) providing access would reveal the intentions of the organisation in relation to negotiations with the individual in such a way as to prejudice those negotiations; or
- (g) providing access would be unlawful; or
- (h) denying access is required or authorised by or under law; or
- (i) providing access would be likely to prejudice an investigation of possible unlawful activity; or
- (j) providing access would be likely to prejudice:
 - (i) the prevention, detection, investigation, prosecution or punishment of criminal offences, breaches of a law imposing a penalty or sanction or breaches of a prescribed law; or
 - (ii) the enforcement of laws relating to the confiscation of the proceeds of crime; or
 - (iii) the protection of the public revenue; or
 - (iv) the prevention, detection, investigation or remedying of seriously improper conduct or prescribed conduct; or
 - (v) the preparation for, or conduct of, proceedings before any court or tribunal, or implementation of its orders; by or on behalf of an enforcement body; or
- (k) an enforcement body performing a lawful security function asks the organisation not to provide access to the information on the basis that providing access would be likely to cause damage to the security of Australia.

6.2 However, where providing access would reveal evaluative information generated within the organisation in connection with a commercially sensitive decision-making process, the organisation may give the individual an explanation for the commercially sensitive decision rather than direct access to the information.

Note: An organisation breaches subclause 6.1 if it relies on subclause 6.2 to give an individual an explanation for a commercially sensitive decision in circumstances where subclause 6.2 does not apply.

6.3 If the organisation is not required to provide the individual with access to the information because of one or more of paragraphs 6.1(a) to (k) (inclusive), the organisation must, if reasonable, consider whether the use of mutually agreed intermediaries would allow sufficient access to meet the needs of both parties.

6.4 If an organisation charges for providing access to personal information, those charges:

- (a) must not be excessive; and
- (b) must not apply to lodging a request for access.

6.5 If an organisation holds personal information about an individual and the individual is able to establish that the information is not accurate, complete and up-to-date, the organisation must take reasonable steps to correct the information so that it is accurate, complete and up-to-date.

6.6 If the individual and the organisation disagree about whether the information is accurate, complete and up-to-date, and the individual asks the organisation to associate with the information a statement claiming that the information is not accurate, complete or up-to-date, the organisation must take reasonable steps to do so.

6.7 An organisation must provide reasons for denial of access or a refusal to correct personal information.

7. Identifiers

7.1 An organisation must not adopt as its own identifier of an individual an identifier of the individual that has been assigned by:

- (a) an agency; or
- (b) an agent of an agency acting in its capacity as agent; or
- (c) a contracted service provider for a Commonwealth contract acting in its capacity as contracted service provider for that contract.

7.1 A However, subclause 7.1 does not apply to the adoption by a prescribed organisation of a prescribed identifier in prescribed circumstances.

Note: There are prerequisites that must be satisfied before those matters are prescribed: see subsection 100(2).

7.2 An organisation must not use or disclose an identifier assigned to an individual by an agency, or by an agent or contracted service provider mentioned in subclause 7.1, unless:

- (a) the use or disclosure is necessary for the organisation to fulfil its obligations to the agency; or
- (b) one or more of paragraphs 2.1(e) to 2.1(h) (inclusive) apply to the use or disclosure; or
- (c) the use or disclosure is by a prescribed organisation of a prescribed identifier in prescribed circumstances.

Note: There are prerequisites that must be satisfied before the matters mentioned in paragraph (c) are prescribed: see subsection 100(2).

7.3 In this clause: identifier includes a number assigned by an organisation to an individual to identify uniquely the individual for the purposes of the organisation's operations. However, an individual's name or ABN (as defined in the A New Tax System (Australian Business Number) Act 1999) is not an identifier.

8. Anonymity

Wherever it is lawful and practicable, individuals must have the option of not identifying themselves when entering transactions with an organisation.

9. Transborder data flows An organisation in Australia or an external Territory may transfer personal information about an individual to someone (other than the organisation or the individual) who is in a foreign country only if:

- (a) the organisation reasonably believes that the recipient of the information is subject to a law, binding scheme or contract which effectively upholds principles for fair handling of the information that are

substantially similar to the National Privacy

Principles; or

(b) the individual consents to the transfer; or

(c) the transfer is necessary for the performance of a contract between the individual and the organisation, or for the implementation of pre-contractual measures taken in response to the individual's request; or

(d) the transfer is necessary for the conclusion or performance of a contract concluded in the interest of the individual between the organisation and a third party; or

(e) all of the following apply:

(i) the transfer is for the benefit of the individual;

(ii) it is impracticable to obtain the consent of the individual to that transfer;

(iii) if it were practicable to obtain such consent, the individual would be likely to give it; or

(f) the organisation has taken reasonable steps to ensure that the information which it has transferred will not be held, used or disclosed by the recipient of the information inconsistently with the National Privacy Principles.

10. Sensitive information

10.1 An organisation must not collect sensitive information about an individual unless:

(a) the individual has consented; or

(b) the collection is required by law; or

(c) the collection is necessary to prevent or lessen a serious and imminent threat to the life or health of any individual, where the individual whom the information concerns:

(i) is physically or legally incapable of giving consent to the collection; or

(ii) physically cannot communicate consent to the collection; or

(d) if the information is collected in the course of the activities of a non-profit organisation—the following conditions are satisfied:

(i) the information relates solely to the members of the organisation or to individuals who have regular contact with it in connection with its activities;

(ii) at or before the time of collecting the information, the organisation undertakes to the individual whom the information concerns that the organisation will not disclose the information without the individual's consent; or

(e) the collection is necessary for the establishment, exercise or defence of a legal or equitable claim.

10.2 Despite subclause 10.1, an organisation may collect health information about an individual if:

(a) the information is necessary to provide a health service to the individual; and

(b) the information is collected:

(i) as required by law (other than this Act); or

(ii) in accordance with rules established by competent health or medical bodies that deal with

~~the collection of professional confidentiality which binds the organisation~~

10.3 Despite subclause 10.1, an organisation may collect health information about an individual if:

(a) the collection is necessary for any of the following purposes:

- (i) research relevant to public health or public safety;
- (ii) the compilation or analysis of statistics relevant to public health or public safety;
- (iii) the management, funding or monitoring of a health service; and

(b) that purpose cannot be served by the collection of information that does not identify the individual or from which the individual's identity cannot reasonably be ascertained; and

(c) it is impracticable for the organisation to seek the individual's consent to the collection; and

(d) the information is collected:

(i) as required by law (other than this Act); or

(ii) in accordance with rules established by competent health or medical bodies that deal with obligations of professional confidentiality which bind the organisation; or

(iii) in accordance with guidelines approved by the Commissioner under section 95A for the purposes of this subparagraph.

If an organisation collects health information about an individual in accordance with subclause 10.3, the organisation must take reasonable steps to permanently de-identify the information before the organisation discloses i