Responding to Sexual Misconduct Policy

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Policy Statement

Equestrian Australia is committed to ensuring that every person involved with Equestrian Australia is treated with respect and dignity and protected from discrimination, harassment and abuse.

Equestrian Australia has zero tolerance for sexual misconduct which includes sexual offences and incidents of a sexual nature which can cause trauma.

Accordingly, we are committed to providing support and care for anyone impacted by sexual misconduct while under Equestrian Australia’s care (current or past).

Through a dedicated support and response framework, Equestrian Australia will ensure that all directors, employees, members and volunteers in Equestrian Australia care can confidentially report sexual misconduct, seek help and appropriate action can be taken.

This includes a focussed approach with the individual affected by sexual misconduct through the provision of appropriate, sensitive and timely support. Equestrian Australia focus is on assisting any individuals with their immediate safety and wellbeing, as well as their care and recovery.

Equestrian Australia’s response will be individual-focused and trauma-informed, ensuring that the individual’s wishes, safety and wellbeing are prioritised throughout the response.

Scope

This Policy seeks to assist any individual who has been, or is at risk of being, impacted by sexual misconduct while under Equestrian Australia’s care. This includes all those who work for, act on behalf of, or represent Equestrian Australia, and applies to all affiliated organisations, directors, employees, contractors, members and volunteers.

The activities outlined in this document are a secondary form of prevention in the event of an incident of sexual misconduct.

Equestrian Australia recognises that primary prevention and the creation of a respectful culture is critical to minimise the incidence of sexual misconduct and is committed to appropriate education, controls and action at the primary level.

Nothing in this document limits Equestrian Australia’s or an individual’s obligations to comply with applicable laws. In particular, any obligations under mandatory reporting laws will prevail over the confidentiality requirements set out in this document. For example, certain classes of person have obligations to report suspected cases of child abuse or neglect to government authorities under legislation which varies from jurisdiction to jurisdiction (see Equestrian Australia Member Protection Policy for further information regarding such obligations).
Initial contact and first response

Equestrian Australia recognises that the extent to which a person recovers from a traumatic incident is largely linked to the nature of support offered to the individual on disclosure, and has established specialised services to support this first response. These services include customised support for individuals under the age of eighteen.

Delays in reporting are not uncommon. Individuals that were affected by childhood sexual misconduct may carry the experience of abuse into adulthood. It is never too late to disclose or report sexual misconduct.

Equestrian Australia’s focus is on assisting any individuals with their immediate safety and wellbeing, as well as their care and recovery. This will be through the provision of appropriate, sensitive and timely support.

Any Equestrian Australia director, employee, contractor, member or volunteer may be a First Responder. A First Responder is a person who is confided in by another person who has experienced or is currently experiencing an incident/s of sexual misconduct. First Responders need to listen with compassion, respect privacy and confidentiality and encourage the person to seek support. (Refer Attachment A: First Responder Information Sheet)

It is important to remember that the person affected by sexual misconduct has the right to decide how they wish to manage the situation and choose the best option for their circumstances. The First Responder’s role is to provide support and information to help the individual make decisions.

Confidential disclosure

Equestrian Australia encourages anyone that has been affected by sexual misconduct to talk to somebody about what happened, so they can get the support they need as part of their recovery.

A confidential disclosure allows a person to disclose their experience directly to a trained professional without making a formal report to Equestrian Australia or the state/territory police.

Confidential disclosure – External Service Provider

Equestrian Australia encourages those affected by sexual misconduct to contact the Sport Australia Sexual Misconduct Helpline -1800 ASC HELP or email: aschelp@crcc.org.au as the first point of contact. (Refer Attachment B: First Sport Australia Sexual Misconduct Helpline Information Sheet)

The Sport Australia Sexual Misconduct Helpline is managed by the Canberra Rape Crisis Centre (CRCC) which is a non-government, not for profit organisation working to eliminate sexual violence against women, men, young people, children and families. CRCC’s services are available to individuals who have experienced any form of sexual abuse including rape, childhood sexual abuse or sexual harassment.

Formal report

An individual can, at any time, elect to make a formal report to police, relevant authorities or Equestrian Australia. This includes an individual who chooses to progress their initial confidential disclosure to a formal report.
Formal Report – Police or External Agency

- If a report is made to the police the matter is considered under a criminal process and except for taking precautionary action Equestrian Australia will not undertake any internal investigation until the criminal process is concluded.
- If a report is made to an external agency in addition to Equestrian Australia then the matter can be investigated concurrently unless it is determined that this would negatively impact either process.
- Equestrian Australia will support the police and other external agencies with any formal report made to them including where they progress to an investigation.

Outcome of criminal process

- If a person bound by the Policy is convicted of a criminal offence then the conduct of behaviour that they have been found to have committed can be relied upon to establish a disciplinary offence and can be considered to determine sanctions.
- If a person bound by the Policy is acquitted, Equestrian Australia can still take disciplinary action if there is sufficient evidence that the unacceptable behaviour which constitutes a breach of discipline under the policy occurred.

Formal Report – Equestrian Australia

- Any Equestrian Australia investigation or disciplinary action will be more limited than a criminal investigation and has limited sanctions it can impose if an individual is found to have breached the Policy.
- Reports involving sexual offences can only be investigated by Equestrian Australia once a police investigation has been completed due to the criminal nature of the alleged incident.
- Where sufficient evidence exists, Equestrian Australia may decide to proceed with investigating an allegation without a formal report, particularly where patterns of behaviour have become evident.
- Legal representation is not permitted during the formal report process.
- A Complaints Manager will be assigned by Equestrian Australia to manage the complaint.

Assessment

- The Complaint Manager will assess the complainant’s report to ensure whether the:
  - person/s complained about are bound by the Policy;
  - complaint is suggestive of a breach of this Policy;
  - complaint specifies which part of the Policy has allegedly been breached;
  - matter should be referred to the police or other appropriate authorities and
  - matter should be referred to another Complaint Manager due to a potential conflict of interest.

Confidentiality

- All reports will be kept confidential as far as possible and will not be disclosed to another person without consent except if the law requires disclosure or if disclosure is necessary to effectively deal with the complaint.
**Investigation**

- The investigation will be undertaken by the Complaint Manager. The Complaint Manager will:
  - provide the respondent(s) with a copy of the written complaint (if not done previously);
  - contact the respondent(s) and request a written response to the complaint within 14 days;
  - if required, meet separately with the respondent(s) or the complainant in person to collect further evidence or clarify any aspect of their written evidence;
  - if applicable and required, collect statements from witnesses either by:
    - interviewing the witness in person;
    - interviewing the witness on the phone; or
    - requesting the witness provide their version of events in writing.
- If applicable and required, collect any other evidence relevant to the complaint, examples of which may include:
  - video footage;
  - photographs;
  - recordings;
  - reports from external agencies (ie Police);
  - site inspection; and/or
  - tangible items.
- Parties may have a support person present during any meetings or interviews. The support person’s role is for emotional support and may not to act as an advocate.
- The Complaint Manager should complete the investigation within 4 weeks.
- Once the investigation is complete, the Complaint Manager will provide a written report documenting the investigation process, the evidence, the finding and a recommended outcome/s.

**Precautionary Action**

If while conducting the investigation, the Complaint Manager considers that pending the determination of the complaint, the health and safety of any party to the complaint may be put at risk, it may order that a party is temporarily suspended from engaging in any Equestrian Australia services or programs.

**Determination**

- Where the Allegations are not substantiated, the Complaint Manager will write to the complainant and respondent providing a written record of the determination.
- Where the Allegations are substantiated, and a breach of the Policy is established, the Complaint Manager will write to the respondent setting out:
  - the information being relied upon against each allegation;
  - whether each allegation is substantiated or not;
the proposed sanction against each substantiated allegation, or all allegations collectively, and why that sanction has been selected, and

- notify the respondent that they have up to seven days to respond in writing to the Complaint Manager regarding the evidence being relied upon, and the sanction being proposed.

- A party to this procedure may only dispute a decision on the basis of a failure to accord procedural fairness.

- A party may write to the Sanction Delegate within 14 days of receiving the decision and proposed sanctions, setting out the basis for the alleged procedural failing.

- The Sanction Delegate may, in his or her or its ultimate discretion, reject an application to appeal on the basis that there is no identifiable failing to afford procedural fairness.

- Where the Sanction Delegate consider that a failure to afford procedural fairness has occurred, the Sanction Delegate will ask that a new Complaint Manager be appointed and revert to clause 5.4.1.

- When the respondent has responded in writing, the Complaint Manager will consider the respondent’s response and make further enquiries if necessary.

- When the Complaint Manager is satisfied that all relevant issues have been considered, they will make a recommendation to the Sanction Delegate regarding an appropriate Sanction.

- When the Complaint Manager determines the breach is minor, one or more of the following Sanctions may be imposed:
  - A direction that the individual make a verbal and/or written apology.
  - A written warning.
  - A direction that the individual attend counselling or training to address their behaviour.

- When the Complaint Manager determines the breach is moderate, one or more of the following Sanctions may be imposed:
  - A temporary demotion or transfer of the respondent to another location, role or activity.
  - A temporary suspension of the respondent’s membership or participation or engagement in a role or activity.
  - The imposition of a good behaviour period.
  - A withdrawal of any individual awards, placings or records won by the respondent in any tournaments, activities or events held or sanctioned by Equestrian Australia or Affiliated Organisations.

- When the Complaint Manager determines the breach is serious, one or more of the following Sanctions may be imposed:
  - Termination of the respondent’s membership, appointment or engagement.
  - In the case of a coach or official, a direction that the relevant organisation de-register the accreditation of the coach or official for a period of time or permanently.
A withdrawal of any individual awards, placings or records won by the respondent in any tournaments, activities or events held or sanctioned by Equestrian Australia or Affiliated Organisations.

Sanctions

- The Sanction Delegate will consider the recommended Sanction and ensure that any sanction imposed is:
  - Fair and reasonable.
  - Applied consistently with any contractual obligations or other requirements at law.
  - Commensurate with the principles of natural justice.
  - Based on the evidence and information presented.
  - Proportionate to the conduct engaged in.
- The Sanction Delegate will notify the parties of the final sanction decision in writing.
- There is no further right to appeal after the final penalty is imposed by the Sanction Delegate.

Definitions

<table>
<thead>
<tr>
<th>Affiliated Organisations</th>
<th>Any organisation that is affiliated with Equestrian Australia by the Equestrian Australia Constitution.</th>
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<tbody>
<tr>
<td>Complainant:</td>
<td>An individual who makes a complaint.</td>
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<tr>
<td>Complaint Manager:</td>
<td>A person authorised by the Equestrian Australia Chief Executive Officer to make determinations and decisions in relation to this Policy. Delegated authority includes, but is not limited to, determining the process for managing the alleged misconduct, making a determination as to whether or not a breach of the Policy has occurred, conducting an investigation and recommending a sanction.</td>
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| Consent                  | Consent means the free and voluntary agreement to participate in an activity which may include an intimate or sexual relationship given by a person with the cognitive capacity to do so. Consent is not freely and voluntarily given if the person is:  
  - Under force
  - Unconscious or asleep
  - Under the influence of drugs or alcohol
  - Under threat or intimidation
  - In fear of bodily harm
  - Subjected to the exercise of authority
  - Under false or fraudulent representations about the nature or purpose of the act, or
  - Under a mistaken belief that the offender was someone else (for example, their sexual partner).
  Consent can be given and subsequently withdrawn at any point. |
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<tr>
<th><strong>Contractor</strong></th>
<th>A person or persons engaged to provide services to Equestrian Australia or an Affiliated Organisation.</th>
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<tbody>
<tr>
<td><strong>Employees</strong></td>
<td>Includes all ongoing, fixed term and casual employees engaged by Equestrian Australia or any Affiliated Organisation.</td>
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<td><strong>Incidents of a sexual nature</strong></td>
<td>Incidents that have an element relating to gender, sexual orientation, gender identification and/or sexual language and elements of intimidation, aggression and/or violence.</td>
</tr>
<tr>
<td><strong>Member</strong></td>
<td>A person that is designated a member by the Equestrian Australia Constitution.</td>
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<tr>
<td><strong>Precautionary Action</strong></td>
<td>Measures or actions undertaken by Equestrian Australia directed at the person who is alleged to have committed a criminal offence or a breach of this policy. Precautionary action may be undertaken at an early stage pending the outcome of criminal/disciplinary proceedings. A precautionary measure is not a penalty or sanction and must be reasonable and proportionate. Precautionary measures may be put in place if they are necessary to ensure a full and proper investigation can be carried out; and/or for the wellbeing of the person subjected to the alleged assault or other persons whilst the allegation is being dealt with. Precautionary measures include options such as reassignment of work, and suspension.</td>
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<tr>
<td><strong>Respondent</strong></td>
<td>An individual against whom a complaint is made.</td>
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<tr>
<td><strong>Sanction Delegate</strong></td>
<td>A person authorised by the Equestrian Australia Chief Executive Officer to apply a sanction where there has been a finding that the Policy has been breached.</td>
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| **Sexual Misconduct** | Includes sexual offences and serious incidents of a sexual nature which can cause trauma, including:  
- Repeated demeaning behaviours of a sexual nature  
- Exclusion based on gender, sexual orientation or gender identification  
- Persistent unwanted/unwarranted attention of a sexual nature  
- Recording, photographing or transmitting incidents and images of sexual misconduct. |
| **Sexual Offences** | Criminal offences (including sexual assault/rape and acts of indecency) against a person that involve a physical act of a sexual nature, sometimes accompanied by violence that is committed against a person without their consent. |
| **Sport Australia** | Sport Australia is the operating brand name of the Australian Sports Commission (ASC) and the Australian Institute of Sport (AIS), a Commonwealth entity within the Australian Government. |
| **Trauma** | Trauma can be as the result of a singular event or a series of incidents and experiences and can impair normal functioning, reactions, decision making, behaviours and relationships. Equestrian Australia recognises that trauma can manifest itself in a variety of ways and at different points in time dependent on the individual and the incident. The extent to which a person recovers... |

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1 Equestrian Australia has adopted the same definitions of sexual misconduct as that used by the Sexual Misconduct Prevention and Response Office (SeMPRO) in the Department of Defence.
from a traumatic incident is largely linked to the nature of support offered to the individual on disclosure.

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<th>Trauma-Informed</th>
<th>A framework for human service delivery that is based on knowledge and understanding of how trauma affects people's lives and their service needs,</th>
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<tbody>
<tr>
<td>Volunteer</td>
<td>A person or persons engaged to provide services to Equestrian Australia or an Affiliated Organisation who may or may not be paid.</td>
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APPENDIX A – FIRST RESPONDER INFORMATION SHEET

- Equestrian Australia’s focus is on assisting any individuals with their immediate safety and wellbeing, as well as their care and recovery. This will be through the provision of appropriate, sensitive and timely support.

- Equestrian Australia’s response will be individual-focused and trauma-informed, ensuring that the individual’s wishes, safety and wellbeing are prioritised throughout the response.

- Any Equestrian Australia director, employee, contractor, member or volunteer may be a First Responder. A First Responder is a person who is confided in by another person who has experienced or is currently experiencing an incident/s of sexual misconduct. First Responders need to listen with compassion, respect privacy and confidentiality; and encourage the person to seek support.

Suggested Approach for First Responders - Immediate/Crisis Incident

Check that the person is safe:

- The priority is to make sure you are safe.
- You have the right to always feel safe, and the right to call the police if you are in danger.
- If you are not safe, you should contact the police or someone you trust in your family or community.

Check if the person is injured/hurt:

- Some sexual assaults can be violent and result in dangerous injuries.
- This can also result in shock, and the person may not feel pain right away.
- If they are severely bleeding, have an injury to the head or neck or were unconscious at any stage, have difficulty breathing, or have chest pain, please call for an ambulance.

Professional Services/Support:

- If the person is unsure about what to do, or do not want to go to hospital by themselves or want help from someone other than a friend or family member, please contact the Canberra Rape Crisis Centre (CRCC) on 02 6247 2525.
- CRCC provide crisis support through their telephone service between 7.00am and 11.00pm, 7 days a week every day of the year, including Christmas and public holidays

Suggested Approach for First Responders – Delayed Reporting

- I’m sorry you have endured this type of abuse. There are a few of ways that I can assist you right now.
- Firstly, to help our members in similar difficult situations we have access to a specialist helpline to assist you in the best way possible. If you would like to speak with them I can either give you the information and you can call yourself, or I can take your details and send a referral for you - they will then be in touch as soon as they can after receipt. What would work best for you? The helpline can assist or support going forward with your process.

- What would you be most comfortable with? If yes then provide contact details:
  Sport Australia Sexual Misconduct Helpline: 1800 272 4357
  Email Address: aschelp@crcc.org.au
Sport Australia Sexual Misconduct Helpline
1800 ASC HELP (1800 272 4357) aschelp@crcc.org.au

Sport Australia works with specialist service providers to support anyone impacted by sexual misconduct while under Sport Australia’s care. This support is available to any man, woman or child who has experienced, or is at risk of, any form of sexual misconduct, whether it is a recent event or something which happened in the past.

This service also supports individuals seeking information, advice and/or support in the prevention or response to observed sexual misconduct. The help available is broad and includes:

- Assisting with your immediate safety – this includes your physical and mental safety.
- Providing you with immediate support – you can call a helpline to get assistance straight away. You can get help to get a medical assessment; stay with you while you speak with police, if that's what you choose to do; support you to speak with your employer or manager; or stay with you until your own support person, whether that is a friend or family member, arrives.
- Providing you with ongoing support – a support coordinator can work with you to ensure you have access to the expert support you need as well as assist you and those around you too.
- Providing you with guidance – expert knowledge can be shared with you to inform your actions and assist in making decisions.

Each of these support services help to ensure those who disclose incidents of sexual misconduct (irrespective of gender) are given appropriate, sensitive, and ongoing support to assist with their immediate safety, wellbeing and recovery.

Sport Australia has engaged the Canberra Rape Crisis Centre (CRCC) to provide these services. The CRCC is a non-government, not for profit organisation working to eliminate sexual violence against women, men, young people, children and families. CRCC’s services are available to individuals who have experienced any form of sexual abuse including rape, childhood sexual abuse or sexual harassment.

**How can the helpline help me?**

The confidential helpline can assist if you have been, or are at risk of being, impacted by sexual misconduct while under Sport Australia’s care as well as if you are seeking information to prevent or responding to observed sexual misconduct.

Trained CRCC staff will listen to your needs and concerns and discuss your long and short-term safety, resources and options. Perhaps most importantly, trained staff will be there to support you and let you know that you are not alone.

You can talk one-on-one with a CRCC staff member to access a range of further services, including:

- Expert guidance
- Crisis intervention
- Emotional support
- Referrals to specialist services in your local area
- Information on formal reporting options
- Support through processes such as investigations, legal procedures or other processes.

This crisis and counselling helpline is staffed between 7am – 7pm seven days a week. Services are confidential – except where there is a risk of further harm – and workers are trained in counselling and supporting survivors of sexual misconduct and sharing their expert knowledge.