

CRIMINAL CONVICTION POLICY

Authority

This Policy is made under clause 39 of the AusTriathlon Limited (**AusTri**) Constitution (**Constitution**). It is binding on all Members of AusTri and Participants racing in AusTri Sanctioned Events under an ODL. It is subject to, and is to be interpreted in accordance with, the Constitution.

1. Introduction

This Policy supports all Triathlon Entities' commitment to the safety and welfare of members and others who engage in, and/or with, all triathlon activities governed (whether directly or indirectly) by AusTri.

2. Policy

This Policy:

- a. directs, and binds, all Triathlon Entities, Members and Participants when dealing with the situation where a Member or Participant:
 - is subject to a police investigation in respect to, or has been charged with, committed to trial for, and/or convicted of, a serious criminal offence. is not intended to capture drink driving offences or minor offences.
Note apprehended violence orders, domestic violence orders and personal safety intervention orders are considered Serious Criminal Offences for the purposes of this Policy; and
- b. seeks to protect Triathlon's image and reputation within the community as well as reinforcing its **zero tolerance** position with respect to those who choose not to respect the dignity, health and welfare of others. It also seeks to respond to community expectations.

3. Application

3.1 Principles

This Policy adopts and applies the following principles. At all times Members, Participants and Triathlon Entities must:

- a. cooperate fully with any police investigation and with any government and/or judicial authority;
- b. cooperate fully with any investigation or action or reasonable direction of AusTri made under or in relation to this Policy;
- c. subject to the law, deal with criminal allegations, investigations, charges and convictions promptly, openly, and honestly;
- d. treat any matter or information arising from the application of this Policy in confidence;
- e. act in good faith and with integrity; and

- f. remain focused on maintaining effective triathlon and multisport operations and services.

3.2 When a Member or Participant is the subject of a police investigation

- a. As soon as a Triathlon Entity or an officer of a Triathlon Entity becomes aware that a Member or Participant is subject to a police investigation, the Triathlon Entity or officer shall:
 - i. immediately advise the NIM who shall appoint a person to liaise with, and assist, as necessary that Triathlon Entity, to:
 - A. appoint and assist a spokesperson for the Triathlon Entity;
 - B. produce and deliver (if appropriate, necessary or required) internal and external "Official Statements";
 - C. liaise (as appropriate or necessary) with involved parties;
 - D. monitor and protect the welfare of involved parties; and
 - E. ensure compliance with this Policy;
 - ii. review and formally adopt the "Position Statement & Protocols" in **Annexure A** (as applicable to the particular circumstances);
 - iii. in consultation with the CEO, determine what action is to be taken pending the conclusion of the police investigation. The CEO may, depending on the circumstances of any particular matter, take such actions as they consider to be in the best interests of all parties and AusTri whilst any investigation is underway. Notwithstanding the generality of the foregoing, a Member or Participant under investigation may be:
 - i. suspended (in part or full) or placed on Restricted Activities; and/or
 - ii. required to step-aside from any position(s) within any relevant Triathlon Entity; and
 - iv. ensure that counselling and/or peer support is available to relevant Members or Participants directly affected if required in the circumstances.
- b. The Triathlon Entity (or its appointed nominee) and the CEO (or their appointed nominee) may, if appropriate, liaise with relevant parties, police and other authorities to ascertain details about the alleged offences being investigated.
- c. The CEO shall advise relevant authorities (e.g. AusTri and other authorities as required by law), if the alleged offence involves a minor.

3.3 When a Member or Participant is charged with a Serious Criminal Offence

- a. As soon as a Triathlon Entity or an officer of a Triathlon Entity becomes aware that a Member or Participant has been charged with a Serious Criminal Offence, **clause 3.2** (as varied below) will apply.
- b. When a Member is charged with a Serious Criminal Offence their membership is automatically suspended and they will be required to step-aside from any position(s) within, any relevant Triathlon Entity, whilst the charges are being heard and resolved.
- c. When a Participant is charged with a Serious Criminal Offence, their right to purchase a ODL for any AusTri Sanctioned Event is automatically suspended whilst the charges are being heard and resolved.
- d. Subject to this Policy, the CEO shall as soon as practicable notify the charged Member or Participant and the relevant Triathlon Entities of the suspension under **clause 3.3(b)**.

- e. The charged Member or Participant, the Triathlon Entity and the CEO acknowledge and agree that whatever sanction(s) and actions as are dictated in the circumstances by law or government policy will apply.
- f. The relevant Triathlon Entity may convene a meeting of Members and other interested parties as soon as practicable to inform them of certain aspects of the situation and to reinforce the application of this Policy. Information provided to Members in any such meeting must be treated confidentially. Under no circumstances can any information be provided which could identify the identity of a complainant/victim where the complainant/victim is a minor.
- g. Immediate relatives and/or close friends (who are also Members of the relevant Triathlon Entity) of the charged Member or Participant and/or accusing Member may, at the direction of the CEO, be required to step aside from any official position(s) with any relevant Triathlon Entity to diffuse any real or potential conflict of interest or perceptions of conflict of interest, until the matter is resolved. Such persons acknowledge and agree that:
 - they themselves are not subject to any disciplinary action if so directed and therefore are not entitled to challenge or appeal such direction; and
 - such direction is made in the best interests of all parties.

3.4 When a Member or Participant is subject to a Committal Hearing or Trial

As soon as a Triathlon Entity or an officer of a Triathlon Entity becomes aware that a Member or Participant is to appear before a committal hearing or trial (other than as a witness) or has been committed to trial, **clauses 3.3(a)-3.3(g)** will apply.

3.5 When a member is convicted of a Serious Criminal Offence

- a. As soon as a Triathlon Entity or an officer of a Triathlon Entity becomes aware that a Member or Participant has been found guilty of a Serious Criminal Offence (either on their own plea or following a trial and irrespective of whether a conviction is recorded or not), **clause 3.2** (as varied below) will apply.
- b. Subject to this Policy, the convicted person is automatically expelled from membership of Triathlon at all levels and in all States and Territories. A Life Member who is convicted also has their Life Membership(s) automatically revoked at whatever level of Triathlon Entity. A Participant who is convicted will no longer be able to purchase an ODL for any AusTri Sanctioned Event in all States and Territories.

4. MEMBERSHIP (NEW & RENEWAL) AND ODL APPLICATIONS FROM PERSONS WITH PAST CONVICTIONS FOR SERIOUS OFFENCE(S)

- a. No Triathlon Entity can or shall knowingly accept a membership application or an ODL application from or for a person who has a prior recorded conviction for a Serious Criminal Offence without the prior approval of AusTri. If a Club or any other Triathlon Entity accepts an application from, or for, a person who has a prior recorded conviction for a Serious Criminal Offence without the prior written approval of AusTri that acceptance, application and membership is null and void and of no effect. A Club or any other Triathlon Entity including AusTri is not obliged to consider or accept any application for membership or for an ODL from a person who has a prior recorded conviction for a Serious Criminal Offence.
- b. Where a Club receives a membership, or an ODL, application from or for a person who has a prior recorded conviction for a Serious Criminal Offence, that the Club wants to accept,

the application must be referred to AusTri who shall, taking relevant policies and any other relevant circumstances (in its sole discretion) into account, determine whether the application can be considered. Should there be any doubt or special circumstances, AusTri may refer the matter to a Judiciary Committee for determination as to whether to accept the person into membership and any conditions for such acceptance.

- c. Where a Club receives a membership or an ODL application from or for a person who has a prior recorded conviction for a Serious Criminal Offence, that the Club has rejected, the Club will advise AusTri of the application and the Club's decision.
- d. There is no appeal against an AusTri's or a Judiciary Committee's decision or a Club's decision under this **clause 4**.

5. DISCRETION

- a. Subject to **clause 5(b)**, the CEO may in their absolute discretion but after making full and proper investigation and inquiry, vary a sanction imposed under this Policy. There is no obligation on the CEO to act under this **clause 5**.
- b. The discretion in **clause 5(a)** is not available to the CEO where the Serious Criminal Offence has involved a minor.

6. DEFINITIONS

AusTriathlon (AusTri) means the governing body for the sports of triathlon, duathlon, aquathlon and related multi-sport events in Australia.

AusTri Sanctioned Event means any event which AusTri has sanctioned as meeting the minimum standards required for a safe, fair event.

CEO means the AusTri Chief Executive Officer.

Material Criminal Offence means any criminal offence that AusTri deems in its absolute discretion is (a) of such a nature and seriousness as to present a risk by the relevant Member or Participant to any other participant in Triathlon or (b) of such a nature that the continued public association between the Member or Participant and their ongoing participation in Triathlon or AusTri Sanctioned Event is detrimental to, brings into disrepute, is inconsistent with, is contrary to, or is prejudicial to, the best interests, image, reputation and/or welfare of AusTri, AusTri Sanctioned Events, any Triathlon Entity or Triathlon.

Member means an individual who holds a current membership with AusTri.

NIM means the AusTri National Integrity Manager.

One Day Licence (ODL) means the method by which participants who are not AusTri Annual Members, contribute to the costs of running an AusTri Sanctioned Event. It also provides Participants with an appropriate level of insurance for their participation in that event.

Participant means any person who competes or seeks to compete in an AusTri sanctioned event whether as a member or ODL holder.

Restricted Activities means either part or full restriction to participate or engage in triathlon or multisport activities. The scope and conditions of such restricted activities will be determined in accordance with this Policy.

Serious Criminal Offence means any offence as per **Annexure B** whether defined within or under State and/or Commonwealth laws or not.

Triathlon Entity means a Triathlon Club, STTA, or any other organisation affiliated or recognised by an STTA or AusTri.

7. RELATED POLICY INSTRUMENTS

Relevant documents can be found at:

To report a breach of this AusTri Criminal Conviction Policy please contact the NIM at integrity@triathlon.org.au.

ANNEXURE A - Position Statement and Protocols

(Triathlon Entity) acknowledges that serious allegations and/or charges have been laid against a Member which are subject to formal police investigation and/or court proceedings.

The [Triathlon Entity's] Management Committee wishes to ensure that such processes are unhindered and that the operations of the [Triathlon Entity], and the valuable safety (and other) services provided to the community are not compromised in any way.

Members and supporters of the [Triathlon Entity] acknowledge and will adhere to the following:

1. Legal issue(s) should be and are being dealt with by appropriate authorities.
2. [Name] has been appointed as the [Triathlon Entity's] Liaison Officer and spokesperson.
3. The legal processes must be allowed to run their course unhindered by all concerned.
4. The [Triathlon Entity], its officers and members will co-operate fully with appropriate authorities and acknowledge that any actions inhibiting "due process" may be interpreted as an attempt to pervert the course of justice.
5. Any actions, including adverse comments or any other dealings (e.g. harassment, abuse etc.), against any members (or their families) concerned with the legal proceedings will not be tolerated.
6. The [Triathlon Entity] Management will deal swiftly and sternly with any reports and/or actions, which adversely affect the interest or welfare of members, their families, witnesses, etc., involved in the legal proceedings.
7. Members must maintain the confidentiality of the issues involved and will refrain from commenting on the issue to anyone except appropriate legal/law personnel. For the avoidance of doubt members must NOT in any circumstance speak to the media.
8. Members will refer any questions or queries to the appointed [Triathlon Entity] spokesperson.
9. Members will remain focussed on carrying out [Triathlon Entity's] duties and responsibilities.
10. No discussions on the issue or the legal proceedings shall be permitted at the [Triathlon Entity's] Meetings, unless approved by AusTri.

ANNEXURE B - Serious Criminal Offences

- Murder
- Manslaughter
- Rape
- Any Serious Offence against a Child
- Human trafficking, kidnapping or unlawful imprisonment
- Armed Robbery
- Aggravated Burglary
- Sexual Assault, Serious Assault, Aggravated assault, Assault causing/occasioning grievous bodily harm
- Terrorism
- Arson
- Urging or threatening or advocating force or violence against groups, members of groups or close associates or through causing damage to property
- Any Material Criminal Offence
- Where a person is subject to a Domestic Violence Order (DVO), a Family Violence Intervention Order (FVIO) or an Apprehended violence order (AVO)
- Any offence that is punishable by a 5-year imprisonment or such equivalent offence as prescribed by legislation governing the punishment of offences.

Document Control Information

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