

CRIMINAL CONVICTION POLICY

Authority

This Policy is made under clause 39 of the AusTriathlon Constitution. It is binding on all Members of AusTriathlon and is to be interpreted in accordance with the AusTriathlon Constitution.

1. Introduction

This Policy supports all Triathlon Entities' commitment to the safety and welfare of members and others who engage with Triathlon.

2. Policy

- a. This Policy directs, and is binding on, all Triathlon Entities and Members when dealing with the situation where a Member:
 - 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.

This Policy is not intended to capture drink driving offences or minor offences. Apprehended violence orders, domestic violence orders and personal safety intervention orders are considered Serious Criminal Offences.

- b. This Policy 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.

3. Application

3.1 Principles

This Policy adopts and applies the following principles. At all times:

- a. Members and Triathlon Entities must cooperate fully with any police investigation and any government and/or judicial authority;

- b. Members and Triathlon Entities must cooperate fully with any investigation or action or reasonable direction of AusTriathlon (AusTri) made under or in relation to this Policy;
- c. Subject to the law, a Triathlon Entity shall deal with criminal allegations, investigations, charges and convictions promptly, openly, and honestly;
- d. Members and Triathlon Entities must treat any matter or information arising from the application of this Policy in confidence;
- e. Members and Triathlon Entities shall act in good faith and with integrity; and
- f. Members and Triathlon Entities shall remain focused on maintaining effective triathlon and multisport operations and services.

3.2 When a Member 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 is subject to a police investigation, the Triathlon Entity or officer shall:
 - i. immediately advise the AusTriathlon National Integrity Manager who shall appoint a person to liaise with, and assist, 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 this Policy is otherwise complied with;
 - ii. formally adopt the “Position Statement & Protocols” in Annexure A (as applicable to the particular circumstances);
 - iii. in consultation with the AusTri CEO, determine what action is to be taken pending the conclusion of the police investigation. The AusTri CEO may, depending on the circumstances of any particular matter, take such actions as he or she considers to be in the best interests of all parties and Triathlon whilst any investigation is underway. Notwithstanding the generality of the foregoing, a Member 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 directly affected if required in the circumstances.
- b. The Triathlon Entity (or its appointed nominee) and the AusTri 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 AusTri CEO shall advise relevant authorities (e.g. AusTriathlon and other authorities as required by law), if the alleged offence involves a minor.

3.3 When a Member 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 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. Subject to this Policy, the AusTri CEO shall as soon as practicable notify the charged Member and the relevant Triathlon Entities of the suspension under clause 3.3(b).
- d. The charged Member, the Triathlon Entity and the AusTri CEO acknowledge and agree that whatever sanction(s) and actions as are dictated in the circumstances by law or government policy will apply.
- e. 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.
- f. Immediate relatives and/or close friends (who are also Members of the relevant Triathlon Entity) of the charged Member and/or accusing Member may, at the direction of the AusTri 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 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 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(f) 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 has been found guilty of a Serious Criminal Offence (either on his/her 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 his/her Life Membership(s) automatically revoked at whatever level of Triathlon Entity.

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

- a. No Triathlon entity can or shall knowingly accept a membership application from or for a person who has a prior recorded conviction for a Serious Criminal Offence without the prior approval of AusTriathlon. 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 AusTriathlon that acceptance, application and membership is null and void and of no effect. A Club or any other Triathlon Entity including AusTriathlon is not obliged to consider or accept any application for membership from a person who has a prior recorded conviction for a Serious Criminal Offence.
- b. Where a Club receives a membership 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 AusTriathlon 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, AusTriathlon 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 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 AusTriathlon of the application and the Club's decision.
- d. There is no appeal against an AusTriathlon'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 AusTri CEO may in his/her absolute discretion but after making full and proper investigation and inquiry, vary a sanction imposed under this Policy.
- b. The discretion in clause 5(a) is not available to the AusTri CEO where the Serious Criminal Offence has involved a minor.

6. DEFINITIONS

Member means an individual member of a Triathlon Entity.

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 so defined within or under State and/or Commonwealth laws as per the table in Annexure B.

Triathlon Entity means a Triathlon Club, STTA, or any organisation affiliated or recognised by a STTA or AusTriathlon.

7. RELATED POLICY INSTRUMENTS

Relevant documents can be found at:

To report a breach of this AusTriathlon Policy please contact the AusTriathlon National Integrity Manager.

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. The 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 AusTriathlon.

ANNEXURE B - Serious Criminal Offences

State	Serious Offence Definition
Cth	<p>Serious Offence, for the purpose of Policy 6.16, defined in the <i>Crimes Act 1914 (Cth)</i> is an offence, that is punishable by imprisonment for 2 years or more; and that is either, a Commonwealth offence, an offence against a law of a State that has a federal aspect or an offence against a law of a Territory; and that is not a serious terrorism offence.</p> <ol style="list-style-type: none"> 1. an offence relating to computer knowledge with a search warrants, accessory after the fact, disclosure and destruction of age determination information, unauthorised disclosure of information, disclosure of integrity testing operations, misuse of assumed identity, serious drug offences; 2. Offence for making false statements in warrants, Offences relating to telephone warrants, Interfering with political liberty, Destroying or damaging Commonwealth property, Forgery of postage stamps, Conspiracy to bring false accusation, Attempting to pervert justice; and 3. Treachery, inciting mutiny, assisting prisoners of war to escape, Piracy, Sabotage.
QLD	<p>Serious Offence, for the purpose of Policy 6.16, means any offence that is defined as an indictable offence under the <i>Criminal Code Act 1899 (QLD)</i> or a “disqualifying offence” under the <i>Working with Children (Risk Management and Screening) Act 2000</i> and includes:</p> <ol style="list-style-type: none"> 1. an offence against a person, including abduction, assault occasioning bodily harm, grievous bodily harm, rape, murder, indecent treatment, indecent dealing, maintaining a sexual relationship with a child, carnal knowledge, kidnapping, deprivation of liberty, cruelty; 2. drug offences, including the cultivation, supply, importation, trafficking, misuse etc. of prohibited or restricted substances; and 3. robbery, fraud, extortion, misappropriation or other offence involving dishonesty.

VIC	<p>Serious Offence, for the purpose of Policy 6.16, means any offence that is defined as an indictable offence under the <i>Crimes Act 1958 (Vic)</i> or an offence within the meaning of “Category A offence” and “Category B offence” under the <i>Working with Children Act 2005 (Vic)</i> and includes:</p> <ol style="list-style-type: none"> 1. offence against a person, including murder, inflict serious injury, assault, rape, stalking, serious bullying offences, kidnapping, failing to protect a child from harm, leaving a child unattended, installing a device to record or observe private activity; 2. drug offences, including the trafficking and supply of a drug of dependents to a child; and 3. fraud, armed robbery, aggravated burglary.
NSW	<p>Serious Offence, for the purpose of Policy 6.16, means any offence that is defined as a serious indictable offence under the <i>Crimes Act 1900 (NSW)</i> or a “disqualifying offence” under the <i>Child Protection (Working with Children) Act 2012 (NSW)</i> and includes:</p> <ol style="list-style-type: none"> 1. an offence against a person, including injury or sexual abuse, murder, assault, rape, fraud, acts of indecency, promoting or engaging in acts of child prostitution, kidnapping, incest, filming a person engaged in a private act, threat to kill or inflict bodily harm; and 2. the infliction of physical, emotional, psychological harm that results in intellectual or physical development of a child to be significantly damaged.

WA	<p>Serious Offence, for the purpose of Policy 6.16, means any offence that is defined as an indictable offence as set out in the <i>Criminal Code Act Compilation Act 1913 (WA)</i> or an offence within the meaning of “Class 1 Offence” or “Class 2 Offence” under the <i>Working with Children (Criminal Record Checking) Act 2004 (WA)</i> and includes:</p> <ol style="list-style-type: none"> 1. offence against a person, including sexual penetration of child, murder, assault, indecency, causing grievous bodily harm, kidnapping, production and distribution of child pornography, failing to protect child from significant harm, leave child unsupervised in vehicle; 2. drug offences, including selling or offering drug paraphernalia to a child; and 3. aggravated robbery, non-aggravated robbery, burglary, theft, fraud.
TAS	<p>Serious Offence, for the purpose of Policy 6.16, means any offence listed in “Appendix A – Crimes for which Offender may be Arrested without Warrant” and any offence listed in “Appendix D – Serious Crimes” in the <i>Criminal Code Act 1924 (Tas)</i> or in “Schedule 1” under the <i>Registration to Work with Vulnerable People (Risk Assessment for Child-related Activities) Order 2014 (Tas)</i> and includes:</p> <ol style="list-style-type: none"> 1. offence against a person, including sexual intercourse with a person under 17 years of age, murder, assault, indecent assault, rape, involvement in child exploitation, distributing child exploitation material, acts that cause grievous harm, genital mutilation, aggravated assault, abduction, stalking; 2. procuring by threats, fraud or drugs; and 3. robbery, blackmail, and demanding with menaces with intent to steal.

NT	<p>Serious Offence, for the purpose of Policy 6.16, means any offence that is defined as an indictable offence as set out in the <i>Criminal Code Act 1983</i> (NT), or would cause “harm to child” or would be considered “exploitation of child” under the <i>Care and Protection of Children Act 2007</i> (NT) and includes:</p> <ol style="list-style-type: none"> 1. offence against a person that endangers, or is likely to endanger a person’s life or that is or is likely to be significant and longstanding, including sexual abuse, murder, prostitution, recklessly endangering serious harm, assaults, sexual assault, rape, kidnapping, robbery, blackmail, fraud, arson; and 2. causing a child to suffer from emotional or psychological harm where the emotional, physical, or intellectual development is likely to be significantly damaged such as, pornographic performance sexual relationship with a child possession of child abuse material, indecent dealing with a child, pornographic or abusive performance with a child, incest.
SA	<p>Serious Offence, for the purpose of Policy 6.16, means any offence that is defined as an indictable or serious offence under the <i>Criminal Law Consolidation Act 1935</i> (SA) or is within the meaning of a “qualifying offence” under the <i>Children and Young People (Safety) Act 2017</i> (SA) and includes:</p> <ol style="list-style-type: none"> 1. offences that are punishable by imprisonment for life or for a term of 5 years or more; 2. offence against the person, including murder, manslaughter, causing serious harm, creating risk of serious harm, abusing, or, kidnapping, rape, indecent assault, incest, arson, robbery; and 3. committing criminal neglect on a child, genital mutilation, production of pornographic material with a child.

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