



# **Personal Safety Guidelines and Procedures Queensland Branch**

## **Mission Statement**

To safeguard the personal safety of every Member of The Scout Association of Australia, Queensland Branch Inc. All Youth and Adult Members will be aware of their rights and responsibilities through effective guidelines and procedures, training programs and complaints procedures, covering issues internal and external to the Movement.

## **Preface**

### **Foreword**

This Personal Safety Guidelines and Procedures has been developed by The Scout Association of Australia, Queensland Branch Inc to support the provision of a safe learning, working, and personal environment for all Members. It aims to raise awareness among the membership that personal safety can be achieved through appropriate behaviours of self and others.

While the guidelines and accompanying procedures becomes part of the overall strategy to protect Members during Scouting activities, it has also been designed as a process that Members can access if they feel their personal safety is threatened in situations external to the activities of the Association.

The Personal Safety Guidelines and Procedures covers all behaviour, which encroaches on an individual's personal safety. However, Scouts Australia (Qld Branch Inc) has identified the following areas as priorities: harassment (sexual and racial); bullying and peer pressure; child abuse and neglect; domestic violence; drug and alcohol abuse; violence; sexual assault; and self esteem:

This document also outlines the roles and responsibilities of all adult Members, and appropriate complaint procedures. The conflict resolution process as outlined in the Queensland Branch Scouting Instructions (2005) has been restated and forms an integral part of this policy. The Personal Safety Guidelines and Procedures is binding on all adults, uniformed and non-uniformed, and youth members.

### **Legislative Sources**

- Child Protection Act 1999 (Queensland)
- Family Services Act 1987 (Queensland)
- Anti Discrimination Act 1991 (Queensland)
- Sex Discrimination Act 1984 (Commonwealth)
- Criminal Code (Child Pornography and Abuse) Amendment Act 2005
- Workplace Health and Safety Act 1995
- Workplace Health and Safety Regulation 1997
- Code of Practice – Prevention of Workplace Harassment 2004

### **Other Sources**

- United Nations Declaration of the Rights of the Child (See Appendix 6)

## Context of the Policy within the Scouting Program

- The Scout Promise and Law
- The Scout Association of Australia - Policy and Rules
- Policy

P2.5	Duty to Others
P2.6	Duty to Self
P2.9	Association Values
P2.9.3	Child Protection and Protection from Harm
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P5.1	Adults in Scouting
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- Rules

R 4.4.5	Problem Solving
R 5.1	Educational Outcomes - Joey Scouts
R 6.1	Educational Outcomes - Cub Scouts
R 7.1	Educational Outcomes - Scouts
R 8.1	Educational Outcomes - Venturers
R 9.1	Educational Outcomes - Rovers
R1 2.4	Drugs & Alcohol
R12.8	Provisions for Male and Female Members

- Queensland Branch Scouting Instructions (QBSI)

3.1.4	Code of Conduct for Scouting in Queensland
3.3.5	Revocation of Adult Membership
3.4.4	Review/Resign
3.4.5	Withdrawal of Adult Leader Membership
3.6.1	Overview-Conflict Resolution
3.6.2	Dispute Resolution Procedure
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3.7	Grief and Trauma Counselling
3.8	Blue Card
5.8	Camping/Outdoor Activities

## **Definition of Terms**

Listed below are terms used in the Personal Safety Policy and Complaints Procedure document. The meanings provided relate specifically to the context of that document.

### **Abuse:**

Ill treatment of a person that endangers their physical or emotional health.

### **Agreed timeframe:**

a reasonable period of time negotiated with the complainant to take action on a complaint.

### **Assault:**

A person assaults anyone if without the other person's consent

[A] A person applies force to the other person, or

[B] The person by a bodily act or gesture attempts or threatens to apply force to the other person, and is able to, or appears to be able to apply the force  
(Criminal Code Act 1899 Section 104)

### **Auspices:**

The "banner" (of Scouts Australia).

### **Bullying:**

The act of being overbearing or aggressive with another person to gain power over that person.

### **Caregiver:**

A person who acts in the capacity of a parent.

### **Child Abuse:**

Any act of omission or commission that endangers or impairs a child's physical or emotional health and development. It includes physical abuse or non-accidental injury, emotional abuse, neglect, and sexual abuse and exploitation.

### **Complainant:**

The person making a complaint.

### **Criminal Offence:**

Is punishable by law. If charged, the accused will usually be tried in a court, and if found guilty, may be sentenced to prison.

### **Equal Access:**

Where everyone has the same access to, or use of resources, services, or opportunities.

### **Equal Opportunities:**

Where everyone has exactly the same opportunities as everyone else because the system is fair and just.

### **Equity:**

Process of providing special or additional support to those who have been treated unfairly to ensure equal opportunity, access and participation.

### **External:**

All happenings outside the Movement i.e. the wider community.

**Harassment:**

Any form of unwelcome behaviour, which makes a person, feel uncomfortable or threatened.

**Integral Part:**

A necessary part or component of the policy or strategy.

**Line Management:**

Applied to management structure of Scouts Australia.

**Mediation:**

Process where the complainant and the alleged perpetrator have a third, neutral person to help bring about an agreement or reconciliation.

**Movement:**

Those who are members of Scouts Australia.

**Non-Coercive:**

Reasonable behaviour that does not seek to influence another person to act in a way clearly against his/her wishes.

**Non-Discriminatory (Language):**

That which values all people and is not based on different attributes of people e.g. put downs, sexist and racist comments are discriminatory and unlawful under the Queensland Anti Discrimination Act.

**Perpetrator:**

The person who is alleged responsible for the inappropriate behaviour.

**Personal Safety:**

Where people feel safe and protected in all aspects of their personal life. This requires that rights and responsibilities of individuals are understood and respected.

**Safeguard:**

To protect or keep safe.

**Safe Learning, Working Or Personal Environment:**

An harassment free environment and one in which people feel their personal safety is maintained.

**Sexual Abuse:**

Is the exploitation of a child by an older person or adult for the sexual stimulation and/ or gratification of that person.

**Social Justice:**

Process which identifies the circumstances, attitudes and practices that prevent equality, and sets out to eliminate them.

**Strategy:**

A planned procedure or action.

**The Association:**

Same as Scouts Australia.

**Team Leader:**

The leader who is the most senior Leader in a given group.

**Unlawful:**

Is also regarded as breaking the law but not as a criminal offence. A hearing may occur and in this case the hearing is usually facilitated by a tribunal eg Human Rights and Equal Opportunity Commission. Punishment may include a public apology and/or a fine.

**Vicarious Liability:**

In terms of liability, Scouts Australia (Qld Branch Inc) can be held vicariously liable for the actions of the Association's workers whilst they are performing duties on behalf of the Association. This means that if legal action is taken then ultimately the Association, not individual leaders, will be liable.

However it is expected that adult members would be able to show that all reasonable steps were taken to prevent the abuse from occurring, including educating Members on the policy and its application.

**Victim:**

A person who has allegedly received ill treatment or been treated unfairly.

## **Section 1: Guidelines**

**1.1** The aim of the Association is:

*"The aim of Scouting is to encourage the physical, intellectual, social, emotional and spiritual development of young people so that they take a constructive place in society as responsible citizens, and as a member of their local, national and international communities."*

The Association recognises that to achieve this aim it is imperative to provide Members with knowledge and understandings about personal safety through the Scout program so that they are able to protect themselves as well as others.

**1.2** The Association believes that all Members have the right to engage safely in Scouting and activities external to those of the Movement without fear of harassment or threat to personal safety. Any threat to the personal safety of Members will not be tolerated.

**1.3** The Association acknowledges that the provision of a safe learning and working environment includes equal access for all Members to a fair and just complaints process to resolve issues of threat to personal safety.

**1.4** The Association expects that all adult Members will consider complaints as serious and ensure that those who make complaints are not victimised in any way.

**1.5** The Association considers *"sexual harassment, sexual assault and child abuse"* to be of particular concern to the safety of its members and has included specific reference to these within the context of this policy.

**1.6** These guidelines are not meant to preclude behaviour, actions or activities that are considered to be of a reasonable and rational nature.

**1.7** The *Personal Safety Guidelines* is consistent with the intentions of the Association's Code of Conduct and the Scouting program.

## **2. Background Information**

**2.1** The moral and legal responsibility to safeguard the rights of all Members must be shared by all adult Members through their commitment to maintaining an harassment free environment.

See Section 2: Procedures for specific roles and responsibilities.

**2.2** General responsibilities for all adult Members include:

(a) Being conversant with the Association's Personal Safety Guidelines and Procedures.

(b) Demonstrating a commitment to the Code of Conduct through modelling appropriate behaviour. This includes non-violent, non-coercive and non-discriminatory language and practices.

(c) Supporting the development of appropriate understanding, knowledge and skills in all Members to ensure that Scouting provides a safe harassment free environment.



(d) Ensuring that complaints are dealt with confidentially and swiftly, including a negotiated timeframe with the complainant.

(e) Ensuring that complainants are not victimised.

(f) Providing training opportunities for all Leaders to develop the necessary skills to identify and effectively deal with complaints.

(g) Monitoring Scouting activities to ensure the rights of all Members are maintained.

### **3. Definitions**

#### **3.1 For the Purposes of Scouts Australia (Qld Branch Inc)**

The Personal Safety Guidelines aims to prevent all forms of harassment, abuse, and threat to personal safety against their Members. These guidelines and procedures may be used to object to any threat to personal safety through any form of bullying, harassment or abuse, including drug and alcohol abuse, and particularly harassment which is sexual in nature. This process can be accessed by Members to complain about any threat to personal safety at any location.

Harassment and abuse occur because of, the desire of one person to have power over another. The power gained through bullying, harassment or abuse will undoubtedly threaten the personal safety of the victim.

The harassment may focus on a range of characteristics including racial and cultural background, sex, religious beliefs, age, disability, marital status, pregnancy, sexual preference and socio economic circumstance. It can occur in many forms -as peer pressure, youth against youth, adult against youth, adult against adult, and youth against adult. It may be overt or covert behaviour.

Regardless of the focus and form of harassment, the aim is to unfairly treat another person to gain power. This is totally unacceptable to The Scout Association of Australia, Queensland Branch Inc.

The Association acknowledges that not all behaviours are deliberate attempts to threaten the personal safety of another person. However the focus must be understanding how the behaviour, whether deliberate or not, has impacted on the recipient of the behaviour, and how the complaint is resolved.

The Association regards the following behaviours as threatening to personal safety. Some of these behaviours may constitute sexual harassment. For further explanations see 3.2.

- Physical contact such as punching, pinching, hitting, biting, kicking, throwing of implements, pushing, pulling, invasion of personal space.
- Verbal abuse such as name calling, swearing, slander, using intimidating tones when communicating with others, teasing, mimicking, howling and other offensive sounds, as well as requesting members to do something which makes them feel uncomfortable e.g. accepting a lift from a stranger, changing clothing where privacy is limited, taking drugs or alcohol.

- Body gestures including offensive hand signs.

### **3.2 Sexual Harassment - Unlawful**

Both the Federal Sex Discrimination Act and the Queensland Anti Discrimination Act identify sexual harassment as unlawful and define it in the following ways.

*"When a person makes an unwelcome sexual advance, or an unwelcome request for sexual favours, to the other person, or engages in other unwelcome conduct of a sexual nature in relation to the other person".*

(Section 28A Sex Discrimination Act 1984)

*"When a person subjects another person to an unsolicited act of physical intimacy; makes an unsolicited demand or request (whether directly or by implication) for sexual*

*favours from the other person; or makes a remark with sexual connotations relating to the other person; or engages in any unwelcome conduct of a sexual nature in relation to the other person, and the person engaging in the conduct does so with the intention of offending, humiliating or intimidating the other person; or in circumstances where a reasonable person would have anticipated a possibility that the other person would be offended, humiliated or intimidated by the conduct".*

(Sections 1.18 and 1.19 Anti Discrimination Act 1991)

Sexual harassment may include:

- Physical contact (direct and indirect) such as fondling, touching, brushing against another person; indecent exposure; offensive body and hand gestures; using another person's clothing to cause that person pain and/or embarrassment; blocking another person's entry to or exit from an area; having contact of a sexual nature with another person in the presence of a third person; invading the personal space of another person; using intimidating looks such as leering or ogling.
- Verbal (written and oral) intimidation such as referring to another person's sexuality, appearance, body, and sex life; persistent or continual invitations, requests or telephone calls; offensive telephone calls and other forms of telecommunications such as faxes and computers; sexual propositions; offensive letters; following another person home which may constitute the criminal offence of stalking.

It is important to note that some of these behaviours may also constitute sexual abuse or assault which is a criminal offence.

### **3.3 Child Abuse, Neglect and Sexual Abuse - Criminal Offences**

*"It is an offence for anyone having a child in his or her charge to ill treat, neglect, abandon or expose that child in a manner likely to cause it unnecessary suffering or to injure his or her physical or mental health".*

(Section 69 Children's Services Act 1965 -1987)

#### **3.3.1 Child Abuse**

Child abuse is any act of omission or commission that endangers or impairs a child's physical or emotional health and development. It includes:

- Physical abuse or non-accidental physical injury
- Emotional abuse

- Neglect
- Sexual abuse and exploitation

Physically abusive behaviour can include punching, slapping, beating, shaking, burning, biting, throwing a child.

Emotionally abusive behaviour includes constant criticism, scapegoating, withdrawal of affection, belittling and excessive teasing.

To support families in developing protective strategies, the Association has produced, "**CHILD ABUSE PROTECTION - A PARENT'S GUIDE**".

### 3.3.2 Child Neglect

Child neglect is the continued failure to provide a child with the basic necessities of life - food, clothing, shelter, emotional security, medical and dental care, hygiene and adequate supervision - needed for a child's optimum growth and development, and failure to use available resources to meet those needs. In its extreme form it may be abandonment.

Cultural sensitivity must always be taken into consideration.

Neglect reflects the overall level of functioning of a family, their response to situations and their failure to meet the child's physical, intellectual or emotional developmental needs.

### 3.3.3 Sexual Abuse

Sexual abuse is the exploitation of a child by an older person or an adult for the sexual stimulation and/or gratification of that person.

Sexual abuse of children can take many forms from exposure, fondling, voyeurism and exhibitionism, to sexual intercourse, incest, involvement with pornography and child prostitution. It is rarely a one-off event.

Inappropriate sexual behaviour should not be confused with affection or contacts between an adult and child which are essential to a child's healthy growth and development.

Under no circumstances will the Association support the perpetration of these offences.

### 3.4 Sexual Assault - Criminal Offence

A person **assaults** anyone if without the other person's consent

- [A] A person applies force to the other person, or
- [B] The person by a bodily act or gesture attempts, or threatens to apply force to the other person, and is able to or appears to be able to apply the force.

(Qld Criminal Code Section 104)

**Sexual assault** is a definition of assault including any insertion of any object, or the insertion of any part of the body, other than the penis. If the victim is, threatened with bodily harm before, during or immediately after the offence, then a maximum penalty of 14 years imprisonment may be applied.

### **3.5 Workplace Health & Safety - Workplace harassment prevention policy**

#### **3.5.1 Ethical statement**

The Scout Association of Australia, Queensland Branch Inc is committed to ensuring a healthy and safe workplace that is free from workplace harassment. Workplace harassment is unacceptable and will not be tolerated under any circumstances.

#### **3.5.2 Meaning of 'workplace harassment'**

A person is subjected to 'workplace harassment' if the person is subjected to repeated behaviour, other than behaviour amounting to sexual harassment, by a person, including the person's employer or a co-worker or group of co-workers of the person that –

- is repeated, unwelcome and unsolicited;
- the person considers to be offensive, intimidating, humiliating or threatening;
- a reasonable person would consider to be offensive, humiliating, intimidating or threatening.

'Workplace harassment' does not include reasonable management action taken in a reasonable way by the person's employer in connection with the person's employment.

Detailed below are examples of behaviours that may be regarded as workplace harassment, if the behaviour is repeated or occurs as part of a pattern of behaviour. This is not an exhaustive list – however, it does outline some of the more common types of harassing behaviours. Examples include:

- abusing a person loudly, usually when others are present;
- repeated threats of dismissal or other severe punishment for no reason;
- constant ridicule and being put down;
- leaving offensive messages on email or the telephone;
- sabotaging a person's work, for example, by deliberately withholding or supplying incorrect information, hiding documents or equipment, not passing on messages and getting a person into trouble in other ways;
- maliciously excluding and isolating a person from workplace activities;
- persistent and unjustified criticisms, often about petty, irrelevant or insignificant matters;
- humiliating a person through gestures, sarcasm, criticism and insults, often in front of customers, management or other workers;

- spreading gossip or false, malicious rumours about a person with an intent to cause the person harm.

### **3.5.3 What is not workplace harassment?**

According to the definition, the following situations are not considered to be workplace harassment.

#### **3.5.3.1 Single incidents**

A single incident of harassing type behaviour is not considered to be workplace harassment. Nevertheless, single incidents of harassing type behaviour should not be ignored or allowed. Well-managed intervention in response to single incidents will help prevent the situation from escalating.

#### **3.5.3.2 Managerial actions**

This code of practice does not cover situations where a worker has a grievance about reasonable management actions, taken in a reasonable way. Reasonable management actions include legitimate:

- performance management processes;
- action taken to transfer or retrench a worker;
- a decision not to provide a promotion in connection with the worker's employment;
- disciplinary actions;
- allocated work in compliance with systems and policies;
- injury and illness processes;
- business processes, such as, workplace change or restructuring.
- However, these management actions may still be relevant to the code of practice where:
  - managerial actions are primarily used to offend, intimidate, humiliate or threaten workers;
  - processes create an environment where workplace harassment is more likely to occur.

### **3.5.4 Effects of workplace harassment on people and the business**

Workplace harassment has detrimental effects on people and the business. It can create an unsafe working environment, result in a loss of trained and talented workers, the breakdown of teams and individual relationships, and reduced efficiency. People who are harassed can become distressed, anxious, withdrawn, depressed, and can lose self-esteem and self-confidence.

### **3.5.5 Workplace strategies to eliminate workplace harassment**

The Scout Association of Australia, Queensland Branch Inc will take the following actions to prevent and control exposure to the risk of workplace harassment:

- Provide all workers with workplace harassment awareness training;
- Provide a code of conduct which is contained as part of the Deed of Employment for workers to follow;

- Ensure that a complaint handling system is in place and inform all workers on how to make a complaint, the support systems available, options for resolving grievances and the appeals process. Regularly review the workplace harassment prevention policy, complaint process policy and training.

### **3.5.6 Responsibilities of workers**

The Scout Association of Australia, Queensland Branch Inc requires all workers to behave responsibly by complying with this policy, to not tolerate unacceptable behaviour, to maintain privacy during investigations and to immediately report incidents of workplace harassment to the State Executive Officer or in his/her absence the Assistant State Executive Officer.

Managers and supervisors must also ensure that workers are not exposed to workplace harassment. Management are required to personally demonstrate appropriate behaviour, promote the workplace harassment prevention policy, treat complaints seriously and ensure where a person lodges or is witness to a complaint, that this person is not victimised.

### **3.5.7 Where workers can go for assistance**

A worker who is being harassed can contact the State Executive Officer or in his/her absence the Assistant State Executive Officer for information and assistance in the management and resolution of a workplace harassment complaint.

### **3.5.8 Commitment to promptly investigate complaints**

The Scout Association of Australia, Queensland Branch Inc has a complaint handling system which includes procedures for reporting, investigating, resolving and appealing workplace harassment complaints.

Any reports of workplace harassment will be treated seriously and investigated promptly, fairly and impartially. A person making a complaint and/or who is a witness to workplace harassment will not be victimised.

### **3.5.9 Consequences of breach of policy**

Disciplinary action will be taken against a person who harasses a worker or who victimises a person who has made or is a witness to a complaint.

Complaints of alleged workplace harassment found to be malicious, frivolous or vexatious may make the complainant liable for disciplinary action. Malicious, frivolous or vexatious complaints include complaints that are deliberately harmful, spiteful, trivial or unworthy of serious attention or resources.

### **3.5.10 Review of policy**

This policy and the actions outlined above will be reviewed annually, unless required earlier because of changes to the risk profile of the workplace or relevant legislation.

If necessary, further changes and actions may be introduced to ensure that workplace harassment is prevented and controlled.

#### **4. Legal Issues**

**4.1** Scouts Australia (Qld Branch Inc) has a legal and moral responsibility to refer all reports of child abuse, neglect or sexual assault to the appropriate authorities which may include the Police and the Department of Child Safety. Complaints of this nature are referred to the appropriate authorities by Scout Headquarters. The person who is the first point of contact for such complaints must immediately follow the line system of management.

**4.2** In terms of liability, Scouts Australia (Qld Branch Inc) can be held "vicariously liable" for the actions of the Association's workers whilst they are performing duties on behalf of the Association. This means that if legal action is taken then ultimately the Association, not individual leaders, will be liable.

The Association may defend itself and its workers by proving that all reasonable steps were taken to prevent the abuse from occurring. It is expected that adult Members would be able to show that all reasonable steps were taken, including educating Members on the policy and its application.

## **Section 2: Roles and Responsibilities**

### **1. Overview**

#### **1.1 Chief Commissioner**

The Chief Commissioner is responsible for all activities performed under the auspices of Scouting. However the Association expects all Members to support and implement the Personal Safety Program.

#### **1.2 Branch/Regional/District Commissioners**

These Commissioners share the responsibility for the understanding and implementation of the Personal Safety Guidelines and Procedures. Part of this responsibility is to provide training and support to Leaders. Where a complaint is about an adult Member within a group, a Commissioner must be advised immediately.

The Commissioner may also need to be first point of contact to hear the initial complaint. Therefore Commissioners must also be identified to all Members and families of Members as an appropriate contact for complaints.

#### **1.3 Group Leaders**

As for 1.2 above however the Group or District Leader has greater access to sectional Leaders, other Members and their families. Therefore it would be expected that these Leaders would concentrate on:

- Communicating with families to ensure that complaints procedures are accessible to everyone in the group.
- Closely monitoring all Scouting activities.
- Establishing and maintaining the training needs of Leaders.
- Involvement in resolving any conflict and taking immediate action on complaints.

#### **1.4 Leaders**

Leaders play a most important role in protecting the youth of the Movement. Therefore it is their responsibility to ensure that all Members in their care.

- Know and understand their rights and responsibilities in relation to the issue of personal safety of self and others.
- Know how to make a complaint and to whom.
- Are assured that appropriate support will be provided for the victim. In some cases this may require support and action from the relevant authorities.

In addition to this Leaders are responsible for:

- Educating Members through the Scouting Program.
- Being accessible so that complaints can be made.
- Providing options for the effective resolution of a complaint;
- Being prepared to refer difficult or serious cases onto other Leaders such as the Group Leader or a Commissioner.

In the Rover section, this responsibility is shared between the Rover Adviser and the Crew Leader.



### **1.5 Other Adult Members - Uniformed and Non Uniformed (Including Parent Helpers and Scout Fellowships)**

At all times, all Members, especially adults are expected to model appropriate behaviour consistent with the Code of Conduct. If it is suspected that another Member of the Movement is being harassed, abused or neglected in any form, adult Members must report the Expression of Concern to an appropriate Leader.

### **1.6 Advisory Panel**

The Chief Commissioner will convene the Branch Advisory Panel when and if required. The panel will provide support and advice to all Members of the Association as required. The panel can also be requested by the Chief Commissioner to undertake actions which may include mediation and investigation.

**IN THE CASES OF EXTREME CONCERN OR CRIMINAL OFFENCE, THE CHIEF COMMISSIONER MUST BE NOTIFIED IMMEDIATELY BY CONTACTING BRANCH HEADQUARTERS ON 07 3870 7000. IF CALLING OUTSIDE OF NORMAL OFFICE HOURS (8.30 AM TO 5.00PM MONDAY TO FRIDAY) AN EMERGENCY NUMBER WILL BE AVAILABLE ON THE RECORDED MESSAGE FOR YOU TO BE PUT IN TOUCH WITH THE CHIEF COMMISSIONER. WHERE THIS BECOMES NECESSARY, THE LINE SYSTEM OF MANAGEMENT COMMUNICATION SHOULD ALSO BE FOLLOWED.**

## Section 3: Complaint Procedures

### 1. Overview

**1.1** A range of options are available to help resolve a complaint. These should be offered to the complainant, depending on the nature of the complaint.

**1.2** The options outlined are for the resolution of issues within the Movement but may be applied (where appropriate) for complaints external to the Movement.

**1.3** Where youth Members complain about any issue external to the Movement, parents or caregivers should be notified of the complaint. It is preferable that the youth Member themselves, advise their parent/sor caregiver/s Therefore the person hearing the complaint must advise the youth Member to take this action and offer support to do so. However there may be certain circumstances where this is not appropriate, especially where a child has been abused by the parent. Under these circumstances, the person hearing the complaint must immediately follow the line system of management to notify the Chief Commissioner.

**1.4** The person hearing the complaint acts only as a point of contact, outlines the options and helps resolve minor issues. **This person does not mediate or discipline.** These actions should be undertaken by the Team Leader. Care must be taken not to ask leading questions.

**1.5** Members should not be forced into choosing an option 6th which they are uncomfortable. If forced, the communication with the Member and their trust in the complaint process may be undermined. However in serious cases, authorities may need to be advised and the complainant must be aware of the Association's responsibility to do so.

**1.6** If the complaint is serious then the person hearing the complaint must consult with a Team Leader to discuss the most appropriate action to be taken. Members of the Advisory Panel may also be accessed for this advice if necessary.

**1.7** At all times complainants should be assured of support to address the issue. In cases where the person hearing the complaint believes it is necessary to consult with a Team Leader, then the complainant must be advised of the intention to do so.

**1.8** There may be times when a complaint may be made by someone who is offended by behaviour not necessarily targeted at them personally, or someone who is concerned for the personal safety of another Member. In such cases it may not be necessary to make specific allegations but simply to register an **"Expression of Concern"** with an adult Leader so they can monitor or deal with the situation if necessary.

**1.9** If during an investigation into a complaint there are reasonable grounds to suspect that the complaint has not been made in good faith, the investigation may be disbanded BUT the complainant must be advised of this action with reasons to support the decision to cease an investigation. *Note: Such cases are rare*

**1.10** Parents and caregivers must be notified if: their child is perpetrating serious or recurring harassment, bullying or abuse; or their child is involved in any way in a complaint of child abuse or sexual abuse, except where a parent is the alleged perpetrator.

**IN THE CASES OF EXTREME CONCERN OR CRIMINAL OFFENCE, THE CHIEF COMMISSIONER MUST BE NOTIFIED IMMEDIATELY BY CONTACTING BRANCH HEADQUARTERS ON 07 3870 700. IF CALLING OUTSIDE OF NORMAL OFFICE HOURS (8.30 AM TO 5.00PM MONDAY TO FRIDAY) AN EMERGENCY NUMBER WILL BE AVAILABLE ON THE RECORDED MESSAGE FOR YOU TO BE PUT IN TOUCH WITH THE CHIEF COMMISSIONER. WHERE THIS BECOMES NECESSARY, THE LINE SYSTEM OF MANAGEMENT COMMUNICATION SHOULD ALSO BE FOLLOWED.**

## **2. Options**

The following options are for discussion with the complainant. Any option may be chosen by the complainant at any time, Informal options are suggested for minor issues. For serious complaints, the complainant must be advised to employ a formal option where appropriate. Team Leaders should be consulted if the person hearing the complaint is uncertain of the advice to be given to a complainant. Always negotiate a timeline for action with the complainant.

### **2.1 Informal Options**

These options are not applicable to complaints of criminal offence.

#### **2.1.1 Taking No Action**

Complainants taking this option should be advised that it is very unlikely that the offensive behaviour will cease. The emphasis should be on the importance of guiding the perpetrator to change their behaviour and that the complainant should not feel guilty for having been harassed, bullied or abused.

#### **2.1.2 Personal Resolution - One to One**

This option involves the direct communication between the complainant and the alleged perpetrator and usually applies when the complainant has not previously undertaken this action. Many people, particularly children, find it difficult to deal on a one to one basis with the alleged perpetrator. Where this option is preferred, the complainant must realise that they will have to clearly communicate to the perpetrator that their behaviour or actions are threatening to the complainant's feeling of personal safety. It may be necessary to demonstrate to the complainant the type of assertive language required to do this.

#### **2.1.3 Mediation**

A complainant may request that mediation be conducted. The mediator must be an adult Member and in all cases, the mediator must be someone other than the person who received the complaint. It is important that the mediator feels confident to facilitate the process. In most cases this would be the Team Leader or their nominee. A member of the Advisory Panel may be appointed to mediate.

If an adult Member is requested to mediate on an issue external to Scouting, the decision must be discussed with a Team Leader. It may be more appropriate to identify another adult to mediate.

Principles of natural justice apply in mediation, requiring the mediator to:

- Objectively and impartially examine the evidence.
- Allow each Member to be heard and have a fair opportunity to respond.
- Advise the perpetrator of the nature of the complaint and how serious the allegations are considered to be.
- Model fair and just practices.

A decision must be made as to whether the parents or caregivers of the Member should be present for the mediation process. This decision must be discussed with the Team Leader. However it is expected that in serious cases, or where inappropriate behaviour is recurring, then parents/caregivers would be requested to be present.

#### **2.1.4 Direct Intervention**

It may be necessary to apply direct intervention because the complainant is not able to utilise any other informal options.

Where possible it is preferable for someone other than the person who received the complaint to undertake the intervention, although a second person should be present.

If intervention is required for an external issue, then this decision can only be reached after consultation through the line system of management.

## **2.2 Formal Options**

Formal options are usually taken if the behaviour is recurring or more serious in nature. There are two procedures that may be undertaken - Disciplinary or Summary Dismissal procedures. Both apply to all Members of the Association.

Generally, both procedures are undertaken by the Chief Commissioner or an appointee e.g. a member of the Advisory Panel. Where appropriate, the Chief Commissioner may delegate the responsibility to existing structures such as the Troop, Unit and Rover Council.

For serious complaints of threat to Personal Safety external to the Movement, either the Chief Commissioner or an appointee, will support and advise the member of the most appropriate action to be taken.

**HOWEVER IN ALL SERIOUS CASES THE COMPLAINTS MUST BE REFERRED TO THE CHIEF COMMISSIONER. THE CHIEF COMMISSIONER WILL DECIDE ON THE APPROPRIATE DISPUTE RESOLUTION PROCEDURE. BRANCH HEADQUARTERS WILL REFER ALL CRIMINAL OFFENCE ALLEGATIONS TO THE APPROPRIATE AUTHORITIES.**

### **2.2.1 Disciplinary Procedure**

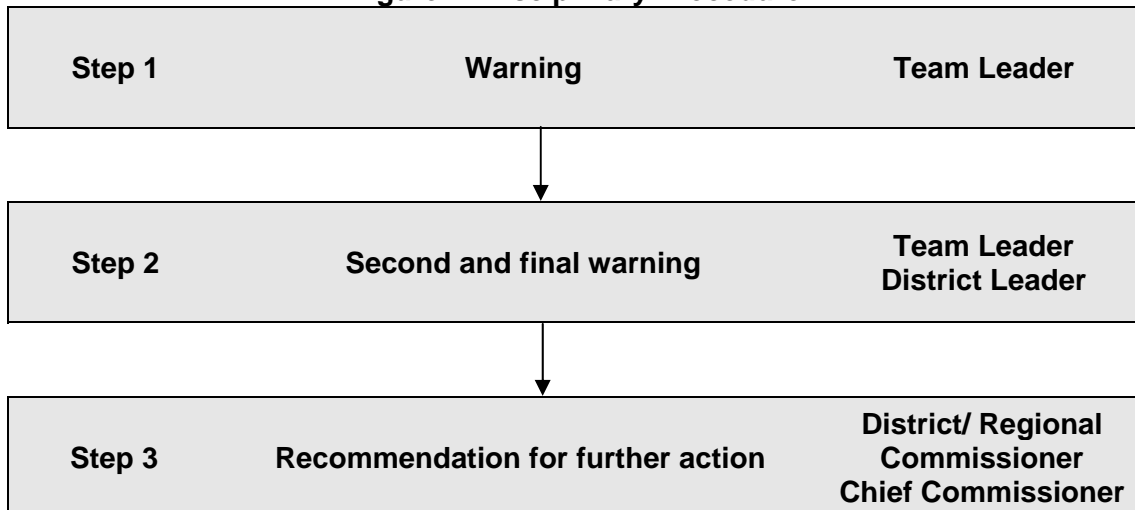
The disciplinary procedure is a three step process, used when a Member acts in a manner contrary to Policy and Rules or in a manner detrimental to the Association or its Members. At each step a designated responsible Scouter facilitates the process.

If the behaviour does not improve or is repeated following the first warning, a second and final warning is given.

In the event that the behaviour persists after a final warning has been given, then recommendation for action may be made.

Disciplinary procedure presented in Figure 1 is consistent with QBSI 3.6.4.

**Figure 1: Disciplinary Procedure**



### 2.2.2 Summary Dismissal Procedure

Summary dismissal procedure is consistent with QBSI 3.6.4. This procedure is to be used:

- (A) When, the actions of an individual infringe the *Association's Duty of Care* to one of its Members or a member of the public.
- (B) Infringements of "Code of Conduct"
- (C) When the actions of a Member bring the Association into disrepute.

A person or persons appointed by the Chief Commissioner eg a member of the Advisory Panel will review the allegations and brief the Chief Commissioner. The decision to determine Membership under these circumstances is the sole prerogative of the Chief Commissioner. The decision is not subject to appeal.

**ALL CRIMINAL OFFENCE ALLEGATIONS WILL BE REFERRED BY BRANCH HEADQUARTERS TO THE APPROPRIATE AUTHORITIES.**

### **3. Natural Justice**

**3.1** Although this policy is primarily concerned with the rights of people complaining about threats to personal safety, the principles of natural justice must apply. Therefore the alleged perpetrator has the same rights as anyone.

**3.2** The person accused must be given the following rights:

- Be informed of the complaint against them.
- Be treated fairly.
- Make a response.
- Have the matter treated confidentially.
- Have the matter heard by an impartial person.
- Seek advice from the Association such as a Team Leader or a member of the Advisory Panel.

### **4. Recording Complaints**

**4.1** The person hearing the complaint should note, in writing, the following:

- Name of the complainant.
- Date and time of the complaint.
- Brief outline of the complaint.
- Options chosen by the complainant.
- Negotiated timeframe.

**4.2** Recorded notes are for the purpose of ensuring that the situation is not left to a recall of memory. However these notes must be kept secure in a confidential file.

**4.3** Recorded notes will not be required by any other level of the Movement. If a report is called for by another level of the Movement, then a record of discussion is the responsibility of the level requesting the report, and will be kept by that level.

**4.4** The person hearing the complaint must not ask leading questions.