

Cycling New Zealand Child & Vulnerable Adult Protection Policy

References: SportNZ, Safe Sport for Children & Crimes Amendment Act 2011

Author: Chris Foggin

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Policy Statement

Cycling New Zealand is fully committed to safeguarding the welfare of all children & vulnerable adults in its care. We recognise we have a responsibility to promote safe practice and to protect children and vulnerable adults from harm, abuse and exploitation while participating in our activities.

Staff and volunteers will work together to embrace difference and diversity and respect the rights of children, young people and vulnerable adults.

For the purposes of this policy and associated procedures a child is recognised as someone under the age of 18 years and an adult is recognised as someone over the age of 18 years.

Vulnerable adult - means a person unable, by reason of detention, age, sickness, mental impairment, or any other cause, to withdraw themselves from the care or charge of another person.

This policy is based on the following principles:

- The welfare of children & vulnerable adults is the primary concern.
- All children & vulnerable adults, whatever their age, culture, disability, gender, language, racial origin, socio-economic status, religious belief or sexual identity have the right to protection from all forms of harm and abuse.
- Child & vulnerable adult protection is everyone's responsibility.
- Children & vulnerable adults have the right to express views on all matters which affect them, should they wish to do so.
- Our organisation will work in partnership together with children & vulnerable adults and parents/carers to promote the welfare, health and development of children & vulnerable adults.

Policy Objectives

The aim of this policy is to promote good practice through:

- Promoting the health and welfare of children & vulnerable adults by providing opportunities for them to take part in cycling activities safely.
- Respecting and promoting the rights, wishes and feelings of children & vulnerable adults.
- Promoting and implementing appropriate procedures to safeguard the well-being of children & vulnerable adults and protect them from abuse.
- Recruiting, training, supporting and supervising staff, members and volunteers to adopt best practice to safeguard and protect children & vulnerable adults from abuse and to reduce risk to themselves.
- Requiring staff, members and volunteers to adopt and abide by this Child Protection & Vulnerable Adults Policy and its procedures.
- Responding to any allegations of misconduct or abuse of children & vulnerable adults in line with this Policy and its procedures as well as implementing, where appropriate, the relevant disciplinary and appeals procedures.

- Regularly monitoring and evaluating the implementation of this Policy and its procedures.

Definitions of Abuse and Neglect

All Cycling New Zealand staff must be able to clearly identify the signs and symptoms of abuse and have the confidence to take appropriate action should abuse be suspected or disclosed.

The Children, Young Persons and Their Families Act, 1989, defines child abuse as “...the harming (whether physically, emotionally, sexually), ill-treatment, abuse, neglect, or deprivation of any child or young person.”

The Crimes Amendment Act 2011 states: “A person is criminally liable for intentionally engaging in conduct, or omitting to discharge or perform any legal duty (such as to provide necessities or take reasonable steps to protect a child or vulnerable adult from injury) the omission of which, is likely to cause “suffering, injury, adverse effects to health, or any mental disorder or disability to a child or vulnerable adult”.

The definitions set out below are sourced from “*How Can I Tell?*” published by Child Matters and provide an overview of indicators of abuse, but should not be seen as an exhaustive list or as a check list.

Physical Abuse

Physical abuse is a non-accidental act on a child or vulnerable adult that results in physical harm. This includes, but is not limited to, beating, hitting, shaking, burning, drowning, suffocating, biting, poisoning or otherwise causing physical harm to a child or vulnerable adult. Physical abuse also involves the fabrication or inducing of illness.

Emotional Abuse

Emotional abuse is the persistent emotional ill treatment of a child or vulnerable adult such as to cause severe and persistent adverse effect on the child’s emotional development. This can include a pattern of rejecting, degrading, ignoring, isolating, corrupting, exploiting or terrorising a child. It may also include age or developmentally inappropriate expectations being imposed on children & vulnerable adults. It also includes the child or vulnerable adult seeing or hearing the ill treatment of others.

Sexual Abuse

Sexual abuse involves forcing or enticing a child, or vulnerable adult to take part in sexual activities (penetrative and non-penetrative, including, rape, kissing, touching, masturbation) as well as non-contact acts such as involving children & vulnerable adults in the looking at or production of sexual images, sexual activities and sexual behaviours.

Cycling New Zealand staff and volunteers should be aware of their 'duty of care' which precludes developing a sexual relationship with or grooming a child or vulnerable adult. A sexual relationship between an adult and child will always be wrong, unequal, unacceptable and illegal.

Neglect

Neglect is the persistent failure to meet a child or vulnerable adult's basic physical and/or psychological needs, causing long term serious harm to the child or vulnerable adult's development. It may also include neglect of child or vulnerable adult's basic or emotional needs. Neglect is a lack of action, emotion or basic needs.

Procedures

1. Screening

As part of our duty of care, we must ensure that suitable and appropriate employees and volunteers (including parents/carers) are engaged to work with children & vulnerable adults. When recruiting people to engage with children & vulnerable adults we will ensure that there is a robust recruitment process that includes:

- creating a role description;
- developing candidate specifications;
- advertising the position;
- an application process;
- following up on referees;
- interviewing; and
- screening (e.g. police vetting).

2. Child and Vulnerable Adult Protection Officer

A Child and Vulnerable Adult Protection Officer * has been appointed to manage child and vulnerable adult protection issues by:

- Ensuring that child or vulnerable adult protection procedures are understood and adhered to by all members;
- Organising promotional activities, training and raising awareness within the organisation;
- Establishing and maintaining the complaints procedure;
- Regularly reporting to the Board/Executive Committee/Management;
- Acting as the main contact for child or vulnerable adult protection matters;
- Keeping up-to-date with developments in child or vulnerable adult protection legislation;
- Liaising with local child or vulnerable adult protection agencies;
- Maintaining confidential records of reported cases and any action taken; and
- Regularly monitoring and reviewing existing policies and procedures.

**The Child & Vulnerable Adult Protection Officer for Cycling New Zealand is Chris Foggin, Education Manager.*

3. Education and training of staff and volunteers

Education and training of staff and volunteers will help Cycling New Zealand to:

- recognise the risks inherent in the sport;
- recognise when children & vulnerable adults are at risk and from what;
- take appropriate precautions to manage and limit identified risks;
- respond in an appropriate manner to children & vulnerable adults who have been harmed or are suspected of being harmed; and
- understand our responsibilities in relation to keeping children & vulnerable adults safe both in terms of prevention and management of cases that may arise.

Staff and volunteers will be trained during their induction. Cycling New Zealand will also ensure that staff and volunteers receive ongoing education and training to keep up-to-date with any changes to the law or internal processes for managing incidents of harm to children & vulnerable adults.

4. Good Practice Protocols

These protocols provide guidance to those working with children & vulnerable adults by outlining good practice and establishing boundaries in a range of situations.

- *Applying a child and vulnerable adult-centred approach where all children & vulnerable adults are treated equally and with dignity.*
 - Activities should be appropriate for the age and development of the children & vulnerable adults in your care.
 - Ensure feedback to children & vulnerable adults is about their performance and not of a personal nature.
 - Use positive and appropriate language when talking to children & vulnerable adults and in their presence.
- *Creating a safe and open working environment.*
 - Ensure that all physical contact with children & vulnerable adults is relevant and appropriate to the activity.
 - Seek permission to touch when doing the above.
 - Do not engage in any intimate, over-familiar or sexual relationships with people under the age of 18 years or vulnerable adults.
 - Ensure that any filming or photography of children and vulnerable adults is appropriate. Obtain consent prior to filming or photographing and explain the end purpose/use of content e.g. to promote course etc.
 - Request parental or carers consent before transporting young people or vulnerable adults in a vehicle. Ensure vehicle is insured and has a current WOF.
 - Ensure you have parental/carers consent to administer first aid if required.
 - Do not consume alcohol in the presence of children & vulnerable adults and do not offer alcohol to children & vulnerable adults under any circumstances.
 - Do not engage in communication on a one to one basis or otherwise through social media or email other than relevant coach/trainee feedback or administration purposes.

- Do not allow parents, carers, coaches, other children & vulnerable adults or spectators to engage in any type of bullying behaviour (this includes cyber bullying).
- Do not engage in any bullying activity.

- *Avoiding situations where you are alone with a child or vulnerable adult.*

- Avoid private or unobserved situations, including being alone with a child or vulnerable adult in the changing rooms.
- Avoid entering changing rooms. If you must enter, knock and announce yourself and try to have at least one other adult with you.
- Avoid driving a child or vulnerable adult unaccompanied.
- Do not invite or encourage children or vulnerable adults to your home.
- Always have another adult present when staying overnight anywhere with children or vulnerable adults. Same sex chaperones should be used.
- Do not share a room with a child or vulnerable adult, other than your own.

5. Code of Conduct/behaviour

Cycling New Zealand has developed a Code of Conduct (on CNZ website under Organisational Documents) which sets out Cycling New Zealand's expectations of its employees, athletes, coaches, instructors, ride leaders, volunteers and supporters. The Code of Conduct has been developed to cover a variety of roles including coaches, athletes, instructors, ride leaders, officials, parents, handlers and administrators. The code also reinforces the good practice protocols.

The Cycling New Zealand Disciplinary Procedures Policy outlines the complaint and internal discipline procedures for breaches of the Code of Conduct. This policy can also be found on the CNZ website and includes an official Complaints Form.

6. Dealing with allegations, responding to concerns

In accordance with members' responsibility to act on any serious concerns, the following should be brought to the attention of the Child and Vulnerable Adult Protection Officer.

- Any instance where this policy is breached or good practice guidelines are not followed.
- Any disclosure by a child or vulnerable adult that abuse or harm is occurring.
- Any suspicions or concerns about a child or vulnerable adult being subject to abuse.

Where concerns about poor practice are reported

Poor practice involves actions that are contrary to the good practice guidelines provided by our sport and increase the risk of harm to children & vulnerable adults.

- Initial concerns should be discussed with your Child and Vulnerable Adult Protection Officer (in the absence of a Child and Vulnerable Adult Protection Officer the board or executive of Cycling New Zealand should be notified).
- Consider the allegation and where there is a legitimate concern provide a written notice to the individual(s) involved.
- If the poor practice is continued or repeated poor practice occurs following a written notice then disciplinary procedures should be enacted in line with the CNZ Disciplinary Procedures Policy. This may include expulsion from Cycling New Zealand.

- Consider actions across all circumstances including – regular coaching and game situations, overnight stays.

Where abuse is suspected or reported

The welfare and interests of the child or vulnerable adult are the first and paramount considerations.

- Ensure the child or vulnerable adult is safe from immediate harm
- Consult immediately with nominated person-in-charge
- As soon as possible, record accurately and appropriately the information received
- Records should be factual (not opinion or hearsay) and concise and include:
 - a) The nature of the allegation
 - b) Who noticed/disclosed the abuse and their relationship to the child or vulnerable adult
 - c) Details of any witnesses (name, address, phone number, email)
 - d) Signs and symptoms noted (including behavioral change)
 - e) Any particular incidents with dates, times and places (if possible)
 - f) Any action taken
- Consult with others as necessary – do not work alone.
- Avoid questioning the child or vulnerable adult beyond what has already been disclosed.
- Do not question or counsel the alleged offender.
- Do not investigate/presume expertise unless very experienced and qualified to do so.
- Notify Oranga Tamariki – Ministry for Children or the Police.
- Notify the Cycling New Zealand Child & Vulnerable Adult Protection Officer.

Policy Review

This policy and these procedures will be regularly reviewed:

- In accordance with changes in legislation and guidance on the protection of children & vulnerable adults or following any changes within Cycling New Zealand.
- Following any issues or concerns raised about the protection of children & vulnerable adults within Cycling New Zealand.
- In all other circumstances, at least every twelve months.

Additional Guidance

Cycling New Zealand, where practicable and appropriate, will:

- have access to a register of every child or vulnerable adult participating in any coaching including relevant medical details and have a contact name and number accessible in case of emergencies.
- treat everybody with respect.
- set an example we would wish others to follow.
- where possible consider activities that involve more than one adult being present or within sight and hearing of others.

- be aware that on occasions our actions may be misinterpreted by others even if they were well intentioned.
- respect a child or vulnerable adult's right to personal privacy.
- provide time for children & vulnerable adults to talk to us.
- encourage children & vulnerable adults to respect and be courteous to others.
- intervene to stop any inappropriate verbal or physical behaviour.
- have a pre-arranged policy for the safe collection of children & vulnerable adults after Cycling New Zealand training events/camps have finished.
- Ensure that any suspicions or allegations of abuse are REFERRED not INVESTIGATED.
- Only refer and seek support from other agencies for those identified under the child protection policy.
- Complete Police Vetting forms.

Appendix 1: RELEVANT LEGISLATION

Health and Safety at Work Act 2015

- This Act deals with the health and safety obligations of an employer to its employees. If a child is an employee of the sports club, the general health and safety obligations of employers under the Act will apply.
- There is also an obligation to ensure the safety of volunteers (some of whom may be children & vulnerable adults) while they undertake the work activity.
- Employers will be held vicariously liable to a third party for acts of its employees. For example, if an employee coach breached a sports club's duty of care to a child member, the club can be liable.

Children, Young Persons and their Families Act 1989

- This Act deals with the responsibility for reporting likely or actual harm in the form of physical or sexual child abuse.
- Section 15 of the Act provides that:
Any person who believes that any child or young person has been, or is likely to be, harmed (whether physically, emotionally or sexually), ill-treated, abused, neglected or deprived may report the matter to a Social Worker or a constable.
- Section 16 of the Act provides protection for people who report ill-treatment or neglect ...

No civil, criminal, or disciplinary proceedings shall lie against any person in respect of the disclosure or supply, or the manner of the disclosure or supply, by that person pursuant to section 15 of information concerning a child or young person (whether or not that information also concerns any other person), unless the information was disclosed or supplied in bad faith.

Crimes Act 1961 – Protection of Children & vulnerable adults

- The key purpose of this part of the Act is to ensure that children & vulnerable adults are adequately protected from assault, neglect and ill-treatment.
- It places greater responsibility on adults (parent or persons in place of a parent) who have actual care or charge of a child to take reasonable steps to protect that child from injury. While 'a person in place of a parent' is not defined in the Act, it appears possible that sports club personnel could

at times be considered to be 'a person in place of a parent'. For example, when taking children & vulnerable adults away to an event or tournament.

- The Act also compels people who live with a child and those who are in frequent contact with children & vulnerable adults and know, or ought to know, that the child is at risk of death, grievous bodily harm or sexual assault to take reasonable steps to protect the child from that risk.

Vulnerable Children & Vulnerable Adults Act 2014

The Vulnerable Children & Vulnerable Adults Act provides a framework for professionals from children & vulnerable adults services to work better together to improve the wellbeing of vulnerable children & vulnerable adults.

The Act is laid out in three parts:

Part 1: Government priorities for vulnerable children & vulnerable adults plan.

4. Purpose of this Part:

- a) Support the Government's setting of priorities for improving the well-being of vulnerable children & vulnerable adults; and
- b) Ensure that children & vulnerable adults agencies work together to improve the well-being of vulnerable children & vulnerable adults.

Part 2: Child protection policies

14. Purpose:

The purpose of this Part is to require child protection policies (that must contain provision on the identification and reporting of child abuse and neglect) to be –

- a) Adopted and reported on by prescribed State services and DHBs boards and
- b) Adopted by school boards; and
- c) Adopted by certain people with whom those services or boards enter into contracts or funding arrangements.

Part 3: Children & vulnerable adults worker safety checking

21. Purpose:

The purpose of this Part is to reduce the risk of harm to children & vulnerable adults by requiring people employed or engaged in work that involves regular or overnight contact with children & vulnerable adults to be safety checked.

25. Safety checks of new children & vulnerable adults workers

- (1) A specified organisation must not employ or engage a person as a child & vulnerable adults worker without ensuring that a safety check of the person complies with section 31 is completed before the employment or engagement commences.
- (2) The obligation in subsection (1) applies,—
 - (a) with respect to core workers, to employment or engagement that commences on or after the date on which this Part comes into force; and
 - (b) with respect to non-core workers, to employment or engagement that commences on or after the date that is 1 year after the date on which this Part comes into force.
- (3) A specified organisation that, in relation to a person whom it employs or engages as a children & vulnerable adults worker, fails to comply with subsection (1) commits an offence and is liable on conviction to a fine not exceeding \$10,000.

26 Safety checks of existing children & vulnerable adults' workers

- (1) A specified organisation must, on or before the applicable date set out in subsection (2), ensure that a safety check that complies with section 31 is completed of every children & vulnerable adults worker who is employed or engaged by the organisation before that date and who it intends will still be employed or engaged by the organisation on that date.
- (2) The applicable dates are as follows:
 - (a) in the case of a core worker, the date that is 3 years after the date on which this Part comes into force;
 - (b) in the case of a non-core worker, the date that is 4 years after the date on which this Part comes into force.
- (3) However, a specified organisation need not comply with subsection (1) if the organisation is satisfied that a safety check of the person that complies with section 31 was completed within 3 years before the relevant date described in subsection (2).
- (4) A specified organisation that, in relation to a children & vulnerable adults' worker whom it continues to employ or engage, fails to comply with subsection (1) commits an offence and is liable on conviction to a fine not exceeding \$10,000.

27 Periodic safety checks of children & vulnerable adults' workers

- (1) A specified organisation must ensure that each children & vulnerable adults worker whom it employs or engages is safety checked within 3 years after the date of the latest safety check of the person that complied with section 31.
- (2) A specified organisation that, in relation to a children & vulnerable adult's worker whom it employs or engages, fails to comply with subsection (1) commits an offence and is liable on conviction to a fine not exceeding \$10,000.

28 Core worker convicted of specified offence not to be employed or engaged

- (1) This section applies to a person who—
 - (a) has been convicted of a specified offence; and
 - (b) does not hold an exemption granted under section 35.
- (2) On and after the date on which this Part comes into force, a specified organisation must not employ or engage a person to whom this section applies as a core worker.
- (3) On and after the date that is 1 year after the date on which this Part comes into force, a specified organisation must not continue to employ or engage a person to whom this section applies as a core worker, regardless of when that worker commenced employment or was engaged, except as provided in this section.
- (4) On and after the date referred to in subsection (3), if a specified organisation believes that a worker whom it employs or engages is a person to whom this section applies, the organisation must immediately—
 - (a) suspend the worker from all duties that require or enable him or her to act as a core worker; and
 - (b) specify the period of suspension, which must be not less than 5 working days (but may be extended from time to time); and

- (c) tell the worker the reason for the suspension and the grounds for the organisation's belief; and
- (d) advise the worker that he or she may respond to the information provided under paragraph (c).
- (5) If a worker is suspended under subsection (4), the employer must not terminate the worker's employment or engagement until at least 5 working days after the suspension begins (unless the person's employment or engagement is terminated sooner for reasons unrelated to that suspension).
- (6) During the period of suspension, the employer must continue to pay the worker on whatever basis would apply to the worker had he or she been suspended on the grounds of serious misconduct.
- (7) At the end of the period of suspension, the employer must terminate the worker's employment or engagement as a core worker if the employer believes on reasonable grounds that the person is a person to whom subsection (1) applies.
- (8) If a worker's employment or engagement is terminated under subsection (7),—
 - (a) no compensation or other payment is payable in respect of the termination, despite anything to the contrary in any contract or agreement; and
 - (b) the termination is deemed to be a justifiable dismissal for the purposes of Part 9 of the Employment Relations Act 2000.
- (9) A specified organisation that contravenes subsection (2) or (3), knowing that, or being reckless as to whether, the person is a person to whom this section applies, commits an offence and is liable on conviction to a fine not exceeding \$50,000.
- (10) A specified organisation that contravenes subsection (4), (5), (6), or (7) commits an offence and is liable on conviction to a fine not exceeding \$50,000.
- (11) Subsection (8)(a) does not limit or affect the Wages Protection Act 1983.

31 Requirements of safety checks

- (1) Every safety check of a person must comply with the requirements for safety checks for core workers or for non-core workers (as appropriate) prescribed by this section and by regulations made under section 32.
- (2) Every safety check of a person must include—
 - (a) confirmation of the identity of the person, carried out as prescribed by regulations made under section 32; and
 - (b) consideration of specific information prescribed by regulations made under section 32; and
 - (c) a risk assessment, carried out as prescribed by regulations made under section 32, that assesses the risk the person would pose to the safety of children & vulnerable adults if employed or engaged as a children & vulnerable adults worker.
- (3) Despite anything in the Criminal Records (Clean Slate) Act 2004, nothing in that Act authorises the concealment of a conviction for a specified offence of a person who is subject to a safety check in relation to employment or engagement as a core worker, even if the person is otherwise deemed to have no criminal record.

32 Regulations prescribing requirements for safety checks

- (1) The Governor-General may, by Order in Council, make regulations prescribing requirements for safety checks, including the following:
 - (a) prescribing the way or ways in which a person's identity must be confirmed,

- (b) prescribing the information that must be considered in the course of a safety check:
 - (c) prescribing the manner in which a risk assessment must be carried out, and the content of a risk assessment:
 - (d) providing that certain forms of checking undertaken by the licensing body of any specified profession or occupation may be treated as satisfying the requirement for safety checking, or for satisfying any 1 or more prescribed requirements for safety checking:
 - (e) prescribing forms for use in safety checking:
 - (f) providing for any other matter contemplated by or necessary for giving effect to the provisions of this Act that relate to the requirements for safety checking.
- (2) Regulations made under this section may provide that different requirements relating to safety checking do, or do not, apply to or in respect of different—
- (a) classes of children & vulnerable adults worker; and
 - (b) specified organisations or classes of specified organisation.

Other relevant legislation includes:

Crimes Amendment Act 2011

Privacy Act 1993

Protection of Personal and Property Rights Act 1988

Sale of Liquor Act 1989

Human Rights Act 1993

Smoke Free Environments Act 1990

New Zealand Bill of Rights Act 1990

Care of Children Act 2004

Sports Anti-Doping Act 2006

Gambling Act 2003

There are numerous pieces of legislation relating to the protection of children & vulnerable adults that may impact on sport and recreation providers.