



# THREE STRIKE POLICY

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May 2024

Linked legislation,  
regulations and/or  
external policies

*Age Discrimination Act 2004 (Cth)*  
*Disability Discrimination Act 1992 (Cth)*  
*Racial Discrimination Act 1975 (Cth)*  
*Sex Discrimination Act 1984 (Cth)*  
*Anti-Discrimination Act 1977 (NSW)*  
*Anti-Discrimination Act 1991 (QLD)*  
*Anti-Discrimination Act 1996 (NT)*  
*Anti-Discrimination Act 1998 (TAS)*  
*Discrimination Act 1991 (ACT)*  
*Equal Opportunity Act 1984 (SA)*  
*Equal Opportunity Act 1984 (WA)*  
*Equal Opportunity Act 2010 (VIC)*

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# Purpose

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All participants of community Rugby play a role in promoting and ensuring a positive environment and supportive behaviours within our game that are consistent with Rugby's Core Values of **discipline, respect, integrity, passion, and teamwork**.

The elimination of poor or abusive behaviour, both on and off the field, whether aimed at match officials, supporters, coaches, players, or Club members, is crucial to ensuring Rugby remains an inclusive and enjoyable game for all.

In particular, match official abuse is one of the biggest threats to the very fabric of our game. It reduces the enjoyment for all and is harmful and hurtful to the match official and leads to a declining number of match officials willing to participate within our game.

We want everyone to enjoy our game because we know that Rugby can change lives for the better and our Rugby Clubs and communities are special. Rugby improves physical and mental health and overall wellbeing. It builds leadership skills, embodies teamwork and unites people and communities. Poor behaviour towards any participant threatens the enjoyment of our game and the benefits it provides.

Under Rugby Australia's Code of Conduct (**Code**), a Club may be responsible and liable for the conduct and behaviour of its members and supporters, whether they are playing a match at home or away.

The Three Strike Policy aims to complement the Code and further deter and eliminate poor and abusive behaviour within our Clubs during any Rugby activity and reinforce acceptable standards of behaviour of Club participants. Under the Three Strike Policy, Clubs are liable for their members and supporters' conduct and are responsible for ensuring their Club is doing what needs to be done to prevent and manage poor and abusive behaviour within its Club, combat poor Club culture and protect the wellbeing and safety of all Rugby participants.

# When it may apply

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The Three Strike Policy applies to Clubs who are in membership with or affiliated to any union, association or other body that is in membership with or affiliated to a Member Union or Affiliated Union<sup>1</sup>. It does not apply to Clubs of the professional and semi-professional game.

The Three Strike Policy may apply to a Club where there is a reported instance of poor or abusive behaviour by a Participant or Participants<sup>2</sup> of their Club directed at other Rugby Participants. It may apply in respect of both on and off field incidents.

The Three Strike Policy may apply to any poor or abusive behaviour that is classed as Prohibited Conduct under the Code or Related Rugby AU Policy<sup>3</sup>, or against the Laws of the Game, specifically, Laws 9.12, 9.27 or 9.28 (**Relevant Laws**).

A Member Union or Affiliated Union must have a reasonable basis to believe that the individual/s whose conduct is in question is connected to the Club to apply the Three Strike Policy to that Club.

For the avoidance of doubt, the Three Strike Policy will not apply where the only link or connection between the poor or abusive behaviour and Rugby is the fact that it involves one or more community Rugby Participants.

The Three Strike Policy may be applied, and a Strike may be imposed:

- in addition to proceedings, and any sanction imposed, against an individual under the Code or the Rugby AU Disciplinary Rules;
- instead, or in lieu, of proceedings, and any sanction, against an individual under the Code; and
- where action under the Code or the Rugby AU Disciplinary Rules is not or may not be available<sup>4</sup>.

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<sup>1</sup> 'Affiliated Union' includes Australian Junior Rugby Football Union Ltd; Australian Rugby Football Schools Union; Australian Defence Force Rugby Union; Australian Universities Rugby Union; Australian Barbarian Rugby Club; Classic Wallabies; NSW Country Rugby Union; Sydney Rugby Union and any other body that is or becomes an "Affiliated Union" pursuant to the terms of the Rugby AU Constitution, as amended from time to time.

<sup>2</sup> 'Participant' is defined in the Code and includes but is not limited to spectators, supporters, club members, club officials, team officials, players, teams or clubs.

<sup>3</sup> 'Related Rugby AU Policy' refers to the suite of Rugby AU integrity policies and includes but is not limited to the Rugby AU Child Safeguarding Policy, Member Protection Policy and Social Media Policy, as amended from time to time.

<sup>4</sup> An example of where action under the Code or Rugby AU Disciplinary Rules may not be available but the Three Strike Policy may apply would be where the individual or individuals cannot be positively identified (but their Club can be) and their behaviour or conduct would be classed as Prohibited Conduct or against a Relevant Law and meets all other requirements under the Policy.

The determination to apply and when to apply the Three Strike Policy is at the absolute discretion of the Member Union or Affiliated Union, or their delegate, taking into account the purpose of this Policy.

For the avoidance of doubt:

- Strikes do not replace sanctions or penalties that are or may be applied or imposed on individuals who are found to be in breach of the Code, a Related Rugby AU Policy or a Relevant Law.
- The Three Strike Policy may apply in respect of more than one incident where appropriate and in the absolute discretion of the Member Union, Affiliated Union or their delegate.
- The Three Strike Policy may be applied, and the process completed before any relevant proceeding under the Code or Disciplinary Rules is commenced or completed where appropriate and in the absolute discretion of the Member Union, Affiliated Union or their delegate.

# Process

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A process pursuant to the Three Strike Policy may commence (at the absolute discretion of a Member Union or Affiliated Union) upon a complaint being received or an incident reported to a Club, Member Union, Affiliated Union or member association of a Member Union or Affiliated Union. The complaint or report will be referred to the relevant Member Union or Affiliated Union in the first instance to manage.

Any delegation by the Member Union or Affiliated Union must be in writing and require the delegate to comply with the provisions of this Policy.

All Strikes will be considered and implemented in the following manner:

## **1. Strike 1**

- 1.1. A Show Cause Notice may be issued to the offending Club by the Member Union, Affiliated Union or its delegate. The Show Cause Notice will set out the particulars of the allegations.
- 1.2. The offending Club will have 14 days to respond to the Show Cause Notice. Any response will need to sufficiently demonstrate all measures the Club has implemented, or will implement, to address the specific particulars detailed within the Show Cause Notice and provide clear explanation as to how this will mitigate future incidents of abuse or other poor behaviour at the Club. This will be the Club's only opportunity to show cause as to why they should not be issued with a Strike (and penalised, if applicable).
- 1.3. The Member Union, Affiliated Union or its delegate, will make a determination as to whether to issue a Strike, taking into account all the relevant information before it, including, but not limited to, the Club's response to the Show Cause Notice. If the offending Club has not responded to the Show Cause Notice within the 14-day period, they may be deemed as having waived their right to respond and a determination may be made.
- 1.4. In addition to a Strike being issued, the Club may receive the following penalty:
  - a) A point deduction penalty up to the equivalent of one win including bonus points as determined by the Member Union, Affiliated Union or its delegate, for the specific team (or teams) involved in the incident or to which the incident relates.

- 1.5. The Member Union, Affiliated Union or its delegate may also direct the Club and/or any or all its registered participants<sup>5</sup> or members, to undertake suitable education and training. Such a direction may be made even where the Member Union, Affiliated Union or its delegate has determined to not issue a Strike.
- 1.6. The offending Club and its registered participants will be advised by the Member Union, Affiliated Union, or its delegate in writing of the Strike if issued, alongside the details of any penalty.
- 1.7. Strike 1 will remain valid for 12 months from the date the Strike 1 is issued.

## 2. Strike 2

- 2.1. If a subsequent reported instance of poor or abusive behaviour to which this Policy may apply occurs within 12 months of the date of issue of Strike 1, a Show Cause Notice may be issued to the offending Club. The Show Cause Notice will set out the particulars of the allegations.
- 2.2. The offending Club will have 14 days to respond to the Show Cause Notice. Any response will need to sufficiently demonstrate all measures the Club has implemented, or will implement, to address the specific particulars detailed within the Show Cause Notice and provide clear explanation as to how this will mitigate future incidents of poor or abusive behaviour at or otherwise connected to the Club.
- 2.3. The Member Union, Affiliated Union or its delegate will establish a Second Strike Committee. The Second Strike Committee may include persons from the Member Union, Affiliated Union, Rugby Australia and/or independent third parties and must be comprised of at least three members.
- 2.4. Executive officials from the offending Club may be required to attend a hearing with the Second Strike Committee to discuss the particulars of the Show Cause Notice and the response to the Show Cause Notice tabled by the Club.
- 2.5. The Second Strike Committee will make a determination as to whether to issue a Strike, taking into account all the relevant information before it, including but not limited to, the Club's response to the Show Cause Notice and participation at any hearing. If the offending Club has not responded to the Show Cause Notice within the 14 day period and/or not participated in any hearing after due notice of the hearing was given, a determination may be made in their absence.
- 2.6. If a determination is made to issue a Strike, it will be Strike 2. If a determination is made not to issue a Strike, the Club will remain on Strike 1.

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<sup>5</sup> Registered in Rugby Xplorer in any role in connection with the Club. References to "registered participants" throughout this policy has the same meaning.

- 2.7. In addition to a Strike 2 being issued, the Club will receive a mandatory penalty, which may include one or more of the following:
- a) every competitive team (that plays for points) at the offending Club within the relevant Junior/Senior Rugby Pathway in which the specific team (or teams) involved in, or relating to, the incident competes, will be issued a point deduction penalty of up to the equivalent of one win including bonus points, determined by the Second Strike Committee<sup>6</sup>; and/or
  - b) a fine of up to a maximum of \$5,000, determined by the Second Strike Committee taking into account all relevant factors, including but not limited to, the seriousness of the matter.
- 2.8. The Second Strike Committee may also:
- a) require further oversight and review of the Club's implementation and ongoing compliance of its proposed measures in relation to Strikes 1 and/or 2; and
  - b) direct the Club and/or any or all its registered participants or members to undertake suitable education and training.
- Such requirements and directions may be made even where the Second Strike Committee has determined to not issue a Strike 2.
- 2.9. The offending Club and its registered participants will be advised by the Member Union, Affiliated Union or its delegate in writing of the Strike 2, alongside the details of any penalty.
- 2.10. The Club will remain on Strike 2 for 12 months from the date the Strike 2 is issued.

### **3. Strike 3**

- 3.1. If a subsequent reported instance of poor or abusive behaviour to which this Policy may apply occurs within 12 months of the date of issue of Strike 2, a Show Cause Notice may be issued to the offending Club by the Member Union, Affiliated Union, or its delegate. The Show Cause Notice will set out the particulars of the allegations.
- 3.2. The offending Club will have 14 days to respond to the Show Cause Notice. Any response will need to sufficiently demonstrate all measures the Club has implemented, or will implement, to address the specific particulars detailed within the Show Cause Notice and provide clear explanation as to how this will

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<sup>6</sup> For example, Junior teams will not receive a point deduction for an incident relating to a Senior Rugby team.



mitigate future incidents of poor or abusive behaviour at or otherwise connected to the Club.

- 3.3. The Member Union, Affiliated Union or its delegate will establish a Third Strike Committee. The Third Strike Committee may include persons from the Member Union, Affiliated Union, Rugby Australia and/or independent third parties and must be comprised of at least three members.
- 3.4. Executive officials from the offending Club will be required to attend a hearing with the Third Strike Committee to discuss the particulars of the Show Cause Notice and the response to the Show Cause Notice tabled by the Club.
- 3.5. The Third Strike Committee will make a determination as to whether to issue a Strike, taking into account all the relevant information before it, including but not limited to, the Club's response to the Show Cause Notice and its participation at the hearing. If the offending Club has not responded to the Show Cause Notice within the 14 day period and/or not participated in the hearing after due notice of the hearing was given, a determination may be made in their absence.
- 3.6. If a determination is made to issue a Strike it will be Strike 3. If a determination is made not to issue a Strike, the Club will remain on Strike 2.
- 3.7. If a Strike 3 has been issued, termination of affiliation to the Club's Member Union or Affiliated Union is an available sanction to the Third Strike Committee. Before determining that the offending Club's affiliation should be terminated, the Third Strike Committee will provide further procedural fairness to the Club in the form of a reasonable opportunity to show cause as to why termination of affiliation should not be determined.
- 3.8. If a Strike 3 is issued and the offending Club's affiliation is not terminated, the Club will receive a mandatory penalty, which may include one or more of the following:
  - a) the specific team (or teams) involved in, or related to, the incident, across any number of competitions the Club may be involved in, may be removed from those competitions for a period to be determined by the Third Strike Committee; and/or
  - b) every competitive team (that plays for points) at the offending Club within the relevant Junior/Senior Rugby Pathway in which the specific team (or teams) involved in, or related to, the incident competes, may be given an automatic forfeit, with no matches played for the next competition round, after the determination has been made by the Third Strike Committee<sup>7</sup>; and/or

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<sup>7</sup> For example, Junior teams will not receive a point deduction for an incident relating to a Senior Rugby team.

- c) a fine of up to a maximum of \$10,000, determined by the Third Strike Committee taking into account all relevant factors, including but not limited to, the seriousness of the matter.

3.9. The Third Strike Committee may also:

- a) require further oversight and review of the Club's implementation and ongoing compliance of its proposed measures in relation to Strikes 1, 2 and/or 3; and
- b) direct the Club and/or any or all its registered participants or members to undertake suitable education and training.

Such requirements and directions may be made even where the Third Strike Committee has determined to not issue a Strike 3.

3.10. The offending Club and its registered participants will be advised by the Member Union, Affiliated Union, or its delegate in writing of the Strike 3, alongside the details of any penalty.

3.11. The Club will remain on a Strike 3 for 12 months from the date the Strike 3 is issued.

## **4. Further Strikes**

4.1. If there is no de-affiliation following a Strike 3 and a subsequent reported instance of poor or abusive behaviour to which this Policy may apply occurs within 12 months of Strike 3, executive officials of the offending Club will be required to attend a hearing with the Member Union, Affiliated Union or its delegate/s to discuss the matter and determine appropriate action (which may include termination of affiliation).

## **5. Re-affiliation**

5.1. Re-affiliation of an offending Club will be considered at the commencement of each season by the Member Union, Affiliated Union or its delegate, subject to all fines being paid and adherence to an agreed detailed plan between the Club and the Member Union, Affiliated Union or its delegate/s to mitigate future incidents of poor or abusive behaviour at or otherwise connected to the Club.

# Implementation

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From the date a Strike is issued, the Club will remain on that Strike level for 12 months, such that:

- **Strike 1** continues for 12 months from the date of issue. If the Club receives a Strike 2 in respect of a reported instance of poor or abusive behaviour that occurred within that period, then:
  - **Strike 2** continues for 12 months from the date of issue. If the Club receives a Strike 3 in respect of a reported instance of poor or abusive behaviour that occurred within that period, then:
    - **Strike 3** continues for 12 months from the date of issue.

The Strike will remain on the Club's record in perpetuity and may be taken into account in any future matters involving the Club relating to poor or abusive behaviour, including making a determination under the Three Strike Policy or under the Code.

Every Club is required to publish and promote the Three Strike Policy. Registered participants and members will also be required to accept the Three Strike Policy as part of the Terms and Conditions of registration.

On receiving a Strike, every registered participant of the Club will be notified of the Strike and the potential of future Strikes if poor or abusive behaviour continues. The Strike may also be published on the website/s of the relevant Member Union or Affiliated Union and on Rugby Australia's website in their absolute discretion.

Clubs are required to cooperate with the reasonable requests made by the Member Union, Affiliated Union, or its delegate in determining whether a Strike should be issued.

The Member Union, Affiliated Union or its delegate will be responsible for the administration of the relevant penalty.

# Appeals

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- 6.1 A decision in respect of a Strike 1 is not subject to appeal.
- 6.2 A decision in respect of a Strike 2 or Strike 3 (including any related penalty) may only be appealed by the Club, Affiliated Union and/or the Member Union on the following grounds:
- (a) Abuse of discretion: Where the decision was so unreasonable that no decision maker, acting reasonably, could have come to that decision having regard to the evidence before it.
  - (b) Newly discovered evidence: In the event of the discovery of new evidence that was not available at the time of the original decision and which is compelling or likely to have materially affected the outcome of the decision.
  - (c) Bias or prejudice: If there is evidence that the Second Strike Committee or Third Strike Committee were biased or had conflicts of interest that may have influenced the decision.
- 6.3 An appeal must be lodged in writing to the Head of Game Development, Rugby Australia, within 14 days of the decision of the Strike and any penalty, setting out the grounds of appeal.
- 6.4 An appeal is to be conducted by way of a review of the decision of the Second Strike Committee or Third Strike Committee (as the case may be), by an Appeal Committee formed by the Member Union or by Rugby Australia.
- 6.5 The Appeal Committee must be comprised of at least three members, all of whom must be free of any conflict of interest. It will at all times act independently, impartially, and fairly.
- 6.6 The Appeal Committee will set its own procedures and may seek further information from the parties as to the basis for the appeal as it considers necessary. Unless required by the Appeals Committee, there will be no hearing.
- 6.7 The Appeal Committee will, having regard to the same material that was before the Second Strike Committee or Third Strike Committee (as the case may be) and any information procured by it in relation to the basis of the appeal in accordance with clause 6.6, review the decision and may uphold the decision or, if it is satisfied that a ground specified in clause 6.2 is established, vary or set aside the decision.
- 6.8 The Appeal Committee should review the decision and decide the matter within fourteen days of the appeal being lodged.
- 6.9 A decision of the Appeal Committee is not subject to appeal and is final.