

# NO FAULT STAND DOWN POLICY WHITE PAPER



JANUARY 31, 2023

Racing Queensland ("RQ") is proposing to introduce a No Fault Stand Down Policy ("Policy") in the form attached. RQ has further refined the Policy based on some initial feedback. We invite racing participants and members of the public to provide comments or suggestions in relation to the Policy by Friday, March 31, 2023. Please submit your response by email to [policies@racingqueensland.com.au](mailto:policies@racingqueensland.com.au).

Capitalised terms not otherwise defined in this document have the meaning given to them in the Policy.

FEEDBACK RECEIVED	RACING QUEENSLAND RESPONSE
What is the legal basis for the No Fault Stand Down Policy?	The No Fault Stand Down Policy is made under s.102(1)(b) of the <i>Racing Act 2002</i> (Qld) ("the Act"), which authorises the Racing Queensland Board, as the control body for all codes of racing in Queensland, to make policies for the good management of the racing industry.
Why is the Policy being implemented?	The Policy is to protect the legitimate interests, image and reputation of all codes of racing. RQ believes it is prejudicial to the racing industry for Senior Club Representatives to continue to perform specific Representative Duties while charged with serious criminal offences. The Policy demonstrates the racing industry's commitment to meeting high community expectations.
Why now?	Similar policies have recently been introduced to several Australian sporting codes reflecting current community expectations. RQ has also undertaken significant engagement with stakeholders on previous iterations of the Policy and considers that the Policy is for the good management of the racing industry.
Who does the Policy apply to?	The Policy applies to Licensed Clubs (as that term is defined in the Act). This means clubs that are licensed by RQ to hold race meetings for the club's code of racing. Clubs will be required to comply with this Policy by exercising their contractual rights in respect of their Senior Club Representatives.
Who is a Senior Club Representative?	A Senior Club Representative is a senior decision maker or representative of a Licensed Club.  For the purposes of the Policy, RQ considers a Senior Club Representative to be any person that:  (a) occupies any of the following position for a Licensed Club: <ol style="list-style-type: none"> <li>(1) an officer of an incorporated association; or</li> <li>(2) a member of the committee,</li> </ol> (each as defined in Schedule 2 of the <i>Associations Incorporation Act 1981</i> (Qld)); or  (b) is an officer (as defined in s9 of the <i>Corporations Act 2001</i> (Cth)) of a Licensed Club (regardless of whether the Licensed Club is a corporation or another type of entity).
What are Representative Duties that a Senior Club Representative is prevented from performing?	Representative Duties are public facing duties that RQ considers a Senior Club Representative performing whilst charged with serious criminal offences are prejudicial to the racing industry.  For the purposes of the Policy, Representative Duties means any role that involves any of the following, whether performed at a Racing Venue or another venue:  (a) performing any duties or functions at a race meeting; or  (b) appearing in any audio or visual broadcast covering or related to racing, on any platform and delivered through any technology;  (c) speaking to the media in any interview, providing comment or editorial to any publication, acting as spokesperson for public comment, or posting on social media in relation to racing; or  (d) attending functions or industry events; or  (e) acting in any official capacity or performing any official functions,

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	but does not include participation in any recognised offender rehabilitation program.
What are the relevant offences?	The Policy is limited to the most serious criminal offences with maximum sentences of 10 years or more. A Senior Club Representative convicted of any Prescribed Offence would be unfit to participate in any code of racing in Queensland for a period of time stated in the Policy determined by reference to the specifics of the Conviction.
A person shouldn't be stood down for something they may not be guilty of.	The Policy requires Affected Persons to be presumed innocent and treated with dignity and respect, striking a balance between the rights of the accused and the need to provide a suitable workplace environment, and protecting the legitimate interests, image and reputation of racing.
The requirement for employers to continue to pay normal wages while a senior club representative is stood down creates an unreasonable financial burden.	<p>RQ acknowledges that the resolution of charges which would be captured by this Policy may be prolonged by legal proceedings.</p> <p>In the Policy, RQ proposes to assist and support Licensed Clubs by paying 50% of the base salary, excluding bonuses or other incentives, of the person stood down. This payment will be provided until the earlier of a final verdict or conviction being reached or 24 months from the date the Senior Club Representative was charged with the offence. Should a final verdict not be reached within 24 months, RQ will negotiate terms with the Licensed Club on which RQ will continue making a financial contribution.</p> <p>Nothing in the Policy prevents an Employer from exercising other rights consistent with the relevant terms of employment.</p>
The Policy should not prevent an employer who wishes to take disciplinary action which may include termination or instant dismissal.	The Policy is a minimum standard and does not prevent employers or other participants from acting in accordance with any other legal rights. Employers may introduce their own formal procedures or agreements as long as they are consistent with this Policy.
RQ cannot override or revoke binding employment agreements.	Once made, the Policy will be a statutory instrument under the Act and must be complied with. Employers are obliged to ensure they are compliant by managing their employees consistently with the Policy.
The Policy cannot require actions which would constitute other legal offences.	The Policy does not require the disclosure of any information, including the name of the accused, the victims or the specific charges. The Policy does not compel any person to act in a way which would breach any other criminal or civil laws and to the extent of any inconsistency, Federal and State laws will prevail.
There are already legal protections in place to ensure employers don't put employees at risk (eg: Workplace Health & Safety Laws)	The primary purpose is to protect the legitimate interests, image and reputation of all codes of racing, and to reflect community expectations that a person charged with a Prescribed Offence would not continue to perform Representative Duties. Employers must also ensure a safe workplace for all employees in accordance with existing legal obligations.
What support would RQ provide to Affected Persons?	RQ requires Affected Persons to be treated with respect and encourages employers to provide appropriate support and resources. If the Affected Person does not have an employer, RQ can refer them to a recognised mental health program.